THE MADRAS ACTS
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ACTS OF THE PROVINCIAL LEGISLATURE.

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INDIA ACTS, 1946.

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1946.

ACT No. I OF 1946.

[28th February, 1946.

An Act further to amend the Workmen's Compensation Act, 1923.

WHEREAS it is expedient further to amend the Workmen's Compensation Act, 1923 (VIII of 1923), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 1946.

Amendment of section. 2, Act VIII of 1923.

2. Sub-section (1) of section (2) of the Workmen's Compensation Act, 1923 (hereinafter referred to as the said Act), in sub-clause (ii) of clause (n), for the word "three" the word "four" shall be substituted.

Amendment of Schedule IV, Act VIII of 1923.

3. In schedule IV to the said Act, for the entry—

"200	..	4,000	5,600	30	0"

the following entries shall be substituted, namely :—

"200	300	4,000	5,600	30	0
300	..	4,500	6,300	30	0"

THE INDIAN MINES (AMENDMENT) ACT, 1946.

ACT No. II OF 1946.

[28th February, 1946.

An Act further to amend the Indian Mines Act, 1923.

WHEREAS it is expedient further to amend the Indian Mines Act, 1923 (IV of 1923), for the purposes hereinafter appearing:

It is hereby enacted as follows:—

Short title.

1. This Act May be called THE INDIAN MINES (AMENDMENT) ACT, 1946.

Amendment of section 30, Act IV of 1923.

2. In section 30 of the Indian Mines Act, 1923, after clause (*bb*) the following clause shall be inserted, namely:—

"(*bbb*) for requiring the maintenance at or near pit-heads of bathing places equipped with shower baths and of locker-rooms for the use of men employed in mines and of similar and separate places and rooms for the use of women in mines where women are employed, and for prescribing; either generally or with particular reference to the numbers of men and women ordinarily employed in a mine, the number and standards of such places and rooms".

Amendment of section 31, Act IV of 1923.

3. In sub-section (5) of section 31 of the Indian Mines Act, 1923, after the word, brackets and letters "clause (*bb*)" the words, brackets and letters "or clause (*bbb*)" shall be inserted.

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1946.

ACT No. III OF 1946.

[28th February, 1946.

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1946.

Amendment of section 528, Act V of 1898.

2. In section 528 of the Code of Criminal Procedure, 1898, after sub-section (1) the following sub-sections shall be inserted, namely:—

"(1-A) At any time before the trial of the case or the hearing of the appeal has commenced before the Additional Sessions Judge, any Sessions Judge may recall any case or appeal which he has made over to any Additional Sessions Judge.

(1-B) Where a Sessions Judge withdraws or recalls a case under sub-section (1) or recalls a case or appeal under sub-section (1-A), he may either try the case in his own Court or hear the appeal himself or make it over in accordance with the provisions of this Code to another Court for trial or hearing, as the case may be.

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) ACT, 1946.

ACT No. IV OF 1946.

[28th February, 1946.

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) ACT, 1946.

Amendment of section 426, Act V of 1898.

2. In section 426 of the Code of Criminal Procedure 1898, after sub-section (2-A), the following sub-section shall be inserted, namely:—

"(2-B) Where a High Court is satisfied that a convicted person has been granted special leave to appeal to His Majesty in Council against any sentence which it has imposed or maintained, or has been granted leave to appeal to His Majesty in Council against an order of the Federal Court on an appeal from the High Court involving the imposition or maintenance of a sentence it may if it so thinks fit order that pending the appeal the sentence or order appealed against be suspended, and also, if the said person is in confinement, that he be released on bail".

THE PROFESSIONS TAX LIMITATION (AMENDMENT) ACT, 1946.

ACT No. V OF 1946.

[28th February, 1946.

An Act to amend the Professions Tax Limitation Act, 1941.

WHEREAS it is expedient to amend the Professions Tax Limitation Act, 1941 (XX of 1941), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE PROFESSIONS TAX LIMITATION (AMENDMENT) ACT, 1946.

Amendment of Schedule Act XX of 1941.

2. To the Schedule to the Professions Tax Limitation Act, 1941, the following item shall be added, and shall be deemed always to have been added, namely:—

"5. The tax on companies, imposed under section 110 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919)."

THE INSURANCE AMENDMENT ACT, 1946.

ACT No. VI OF 1946.

[20th March, 1946.

An Act further to amend the Insurance Act, 1938.

WHEREAS it is expedient further to amend the Insurance Act, 1938 (IV of 1938), for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called THE INSURANCE (AMENDMENT) ACT, 1946.

Amendment of section 2, Act IV of 1938.

2. In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(a) for clause (2) the following clause shall be substituted, namely:—

"(2) 'policy-holder' includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition;"

(b) in clause (15), after the words "who shall" the words and figures "after the 31st day of December 1958" shall be inserted.

Amendment of section 3, Act IV of 1938.

3. In section 3 of the said Act,—

(a) in sub-section (1), after the words "from the Superintendent of Insurance a certificate of registration" the words "for the particular class of insurance business" shall be inserted;

(b) in clause (g) of sub-section (2), for the words "prescribed fee for registration being not" the words "receipt showing payment in the presribed manner of the prescribed fee which shall not be" shall be substituted;

(c) in sub-section (4), for the words "may cancel the registration of an insurer if the insurer has failed to have the registration renewed" the following shall be substituted, namely:—

"may cancel the registration of an insurer—

(f) if the insurer has failed to have the registration renewed, or

(g) if the Superintendent of insurance has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular course of law, or

(h) if the insurer fails to comply with an order under section 3-B";

(d) in sub-section (5), for the words, brackets, letters and figures "clause (d) of sub-section (4), clause (e) of sub-section (4), or because the insurer has failed to have the registration renewed," the words, brackets, letters and figure "clause (a), clause (e), clause (f), clause (g) or clause (h) of sub-section (4)," shall be substituted;

(e) in sub-section (5-C),—

(i) for the words, brackets, letters and figures "clause (a) of sub-section (4), clause (e) of sub-section (4), or because the insurer has failed to have his registration renewed," the words, brackets, letters and figure "clause (a), clause (e), clause (f), clause (g) or clause (h) of sub-section (4)," shall be substituted;

(ii) after the word "accepted," the words, brackets, letters and figures "or satisfies the Superintendent of Insurance that no claim upon him such as is referred to in clause (g) of sub-section (4) remains unpaid or that he has complied with the order under section 3-B," shall be inserted;

(f) in sub-section (5-D), for the words, brackets and figures "a registration is cancelled under sub-section (4) and the insurer is a company incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, the Superintendent of Insurance shall, as soon as may be" the words, brackets and figure "the registration of an insurance company is cancelled under sub-section (4), the Superintendent of Insurance may," shall be substituted;

(g) in sub-section (6), for the words "The Superintendent of Insurance" the words, figures and letter "Subject to compliance with the provisions of sections 5, 10 and 32 and of any order made under section 3-B, the Superintendent of Insurance" shall be substituted;

(h) after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) The Superintendent of Insurance may, on payment of the prescribed fee which shall not exceed twenty-five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary".

Insertion of new section 3-B in Act IV of 1938.

4. After section 3-A of the said Act the following section shall be inserted, namely:—

"3-B. *Certification of soundness of terms of life insurance business.*—If, when considering an application for registration under section 3 or at any other time, it appears to the Superintendent of Insurance that the assured rates, advantages, terms and conditions offered or to be offered in connection with life insurance business are in any respect not workable or sound, he may require that a statement thereof shall be submitted to an actuary appointed by the insurer for the purpose and approved by the Superintendent of Insurance, any may by order in writing further require the insurer to make within such time as may be specified in the order such modifications in the said rates, advantages, terms or conditions, as the case may be, as the said actuary may report to be necessary to enable him to certify that the said rates, advantages, terms and conditions are workable and sound."

Amendment of section 4, Act IV of 1938.

5. In section 4 of the said Act,—

(*a*) in sub-section (1),—

(*i*) the words and figures "not being a provident society as defined in Part III, or a Mutual Insurance Company to which Part IV of this Act applies," shall be omitted;

(*ii*) for the words "commencement of this Act" the words, brackets and figures "commencement of the Insurance (Amendment) Act, 1946," shall be substituted;

(*iii*) for the words "fifty rupees or less or a gross sum of rupees five hundred or less" the words "less than one hundred rupees or a gross sum of less than one thousand rupees" shall be substituted;

(*b*) to sub-section (2) the following shall be added, namely:—

"or to any policy undertaking to pay a gross sum of more than five hundred rupees or an annuity of more than fifty rupees, issued—

(*a*) by an insurer to any person in his permanent employ in respect of the life of that person, or

(*b*) under any scheme, approved by the Superintendent of Insurance and complying with such conditions, if any, as he may think fit to impose, whereby premiums due from persons employed under any employer are collected by or under the supervision of the employer,

or to any policy issued by a Mutual Insurance Company to which Part IV applies and which the Superintendent of Insurance may by order in writing exempt from the provisions of this section, for so long as the company complies with such conditions, if any, as may be prescribed."

Amendment of section 5, Act IV of 1938.

6. To sub-section (2) of section 5 of the said Act the following further proviso shall be added, namely:—

"Provided further that in the application of this section to any insurer who begins to carry on insurance business after the commencement of the Insurance (Amendment) Act, 1946, the references to an insurer in existence in sub-section (1) and this sub-section shall be construed as including references to a provident society (as defined in Part III) in existence, whether or not the society is in the course of being dissolved."

Amendment of section 9, Act IV of 1938.

7. Section 9 of tht said Act shall be renumbered as sub-section (1) of that section, and to the section as so renumbered the following sub-section shall be added, namely:—

"(2) An application under this section shall, if the applicant is carrying on any insurance business in any Indian State notified in this behalf by the Central Government in the official Gazette, be accompanied by a statement to that effect, and in such a case the Court shall not order the return of any deposit under this section unless it is satisfied, after giving notice to the chief insurance authority of the Indian State, that the liabilities of the applicant to that State in respect of the class of business concerned have been satisfied or are otherwise provided for."

Amendment of section 10, Act IV of 1938.

8. In section 10 of the said Act,—

(*a*) in sub-section (2),—

(*i*) after the words "life insurance fund" the words, brackets and figures "the assets of which shall, after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946, be kept distinct and separate from all other assets of the insurer", shall be inserted;

(*ii*) for the words "part of such fund" the words "part of the assets of such fund," and a statement, certified by an auditor showing such assets as at the close of every calendar year and as at any other date which the Superintendent of Insurance may specify, shall be furnished to the Superintendent of Insurance within a period of three months from the date to which the statement relates or within such further period, not exceeding one month, as the Central Government may in any case think fit to allow" shall be substituted;

"(2-A) No insurer carrying on life insurance business shall be entitled to be registered

(*b*) after sub-section (2) the following sub-section shall be inserted, namely:—

for any class of insurance business in addition to the class or classes for which he has been already registered unless the Superintendent of Insurance is satisfied that the assets of the life insurance fund of the insurer are adequate to meet all his liabilities on policies of life insurance maturing for payment."

Amendment of section 11, Act IV of 1938.

9. In clause (*c*) of sub-section (1) of section 11 of the said Act, for the words and figures "payments in accordance with the regulations contained in Part I of the Third Schedule, a revenue account in the form or forms set forth in Part II of that" the words "payments, a revenue account in accordance with the regulations, and in the form or forms, set forth in the Third" shall be substituted.

Amendment of section 15, Act IV of 1938.

10. In section 15 of the said Act,—

(*a*) in sub-section (1), after the word and figure "section 11" in both places where they occur, the words, brackets and figures "or sub-section (5) of section 13" shall be inserted;

(*b*) to sub-section (2) the words "and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be" shall be added.

Amendment of section 16, Act IV of 1938.

11. In sub-section (2) of section 16 of the said Act,—

(*a*) in clause (*a*), after the word "audited" the words "by an auditor or" shall be inserted;

(*b*) in clause (*b*), for the words and figures "furnished in the form or forms set forth in Part II of" the words "furnished, prepared in accordance with the regulations, and in the form or forms, set forth in" shall be substituted.

Amendment of section 17, Act IV of 1938.

12. In section 17 of the said Act, for the words "that Act" the words "the first-mentioned Act" shall be substituted.

Amendment of section 21, Act IV of 1938.

13. In clause (*d*) of sub-section (1) of section 21 of the said Act, after the word and figures "section 16" the words and figures "or section 28" shall be inserted.

Amendment of section 22, Act IV of 1938.

14. Section 22 of the said Act, shall be renumbered as sub-section (1) of that section, and—

(*a*) in the said sub-section (1)—

(*i*) after the words "cause an investigation and valuation" the words "as at such date as the Superintendent of Insurance may specify" shall be inserted;

(*ii*) after the words "approved by the Superintendent of Insurance" the following shall be inserted, namely:—

"and the insurer shall place at the disposal of the actuary so appointed and approved all the material required by the actuary for the purposes of the investigation and valuation within such period, not being less than three months, as the Superintendent of Insurance may specify";

(*b*) to the section as so renumbered the following sub-section shall be added, namely:—

"(2) The provisions of sub-sections (1) and (4) of section 13, and of sub-sections (1) and (2) of section 15 or, as the case may be, of sub-section (2) of section 16, shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the Superintendent of Insurance may specify."

Amendment of section 27, Act IV of 1938.

15. In section 27 of the said Act,—

(*a*) in sub-section (1),—

(*i*) after the words "British India" the words "or the United Kingdom" shall be inserted;

(*ii*) the *Explanation* shall be omitted;

(*b*) in sub-sections (1) and (2)—

(*i*) for the word, brackets and figure "sub-section (3)," the words, brackets, figures and letter "sub-sections (2-A) and (3)" shall be substituted;

(*ii*) for the words "granted by him on policies of life insurance maturing for payment in India and within their surrender values", the words "granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability", shall be substituted;

(*c*) after sub-section (2) the following sub-section shall be inserted; namely:—

"(2-A) Where an insurer has accepted re-assurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded re-assurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) or sub-section (2) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of liability involved in such cession";

(*d*) in sub-section (4), for the word "claims" the word "liabilities" shall be substituted.

Amendment of section 28, Act IV of 1938.

16. In sub-sections (1), (2) and (3) of section 28 of the said Act, for the word "statement" whether it occurs the word "return" shall be substituted.

Amendment of section 29, Act IV of 1938.

17. After the second proviso to sub-section (1) of section 29 of the said Act the following further proviso shall be inserted, namely:—

"Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946, whichever is later; and in case of default, the director, manager, auditor, actuary, officer or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office with the insurer granting the loan on the expiry of the said three months:"

Amendment of section 31, Act IV of 1938.

18. Section 31 of the said Act shall be renumbered as sub-section (1) of that section, and to the section as so renumbered the following sub-section shall be added, namely:—

"(2) No insurer incorporated or domiciled in British India shall hold any of his assets kept in an Indian State otherwise than in the name of an authority approved by the Government of the State, or in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual, except in the case of deposits made under any law of the State relating to insurance or in so far as assets are required by the law of the State to be vested in trustees."

Amendment of section 33, Act IV of 1938.

19. In sub-section (1) of section 33 of the said Act, after the words "himself make such investigation" the following shall be inserted, namely:—

"utilising, if necessary at any time, the services of an auditor or actuary or both, and the insurer shall make available all books of account, registers and other documents and other information required for the purpose of the investigation by the person or persons making the investigation within such period, not being less than three months, as the Superintendent of Insurance may specify;"

Amendment of section 39, Act IV of 1938.

20. To sub-section (7) of section 39 of the said Act the following shall be added, namely:—

"or has at any time applied:

Provided that where a nomination made whether before or after the commencement of the Insurance (Amendment) Act, 1946, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy."

Amendment of section 40, Act IV of 1938.

21. In section 40 of the said Act,—

(*a*) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1-A) In this section and sections 41 and 43, references to an insurance agent shall be construed as including references to an individual soliciting or procuring insurance business exclusively in an Indian State notified in this behalf by the Central Government in the official Gazette and holding a valid licence as an insurance agent under the law of that State';

(*b*) in sub-sections (1) and (2),—

(*i*) after the words "renewal premium" the words "payable on such a policy" shall be inserted;

(*ii*) to the proviso the words "payable on such policies" shall be added;

(*c*) after sub-section (2) the following sub-section shall be inserted, namely:—

"(2-A) Save as hereinafter provided, no insurance agent shall be paid or contract to be paid by way of commission or as remuneration in any form any amount in respect of any policy not effected through him:

Provided that where a policy of life insurance has lapsed, and it cannot under the terms and conditions applicable to it be revived without further medical examination of the person whose life was insured thereby, an insurer, after giving by notice in writing to the insurance agent through whom the policy was effected an opportunity to effect the revival of the policy within a time specified in the notice, being not less than one month from the date of receipt by him of the notice, may pay to another insurance agent who effects the revival of the policy an amount calculated at a rate not exceeding half the rate of commission at which the agent through whom the policy was effected would have been paid had the policy not lapsed, on the sum payable on revival of the policy on account of arrear premiums (excluding any interest on such arrear premiums), and also on the subsequent renewal premiums payable on the policy."

Amendment of section 41, Act IV of 1938.

22. In sub-section (2) of section 41 of the said Act, for the words "one hundred rupees, unless the default is made by a person taking out or renewing or continuing policy, in which case he shall be punishable with fine which may extend to fifty rupees only" the words "five hundred rupees" shall be substituted.

Amendment of section 48, Act IV of 1938.

23. In sub-section (2-A) of section 48 of the said Act, the words "or is an insurance agent or employer of insurance agents", shall be omitted.

Insertion of new section 48-A in Act IV of 1938.

24. After section 48 of the said Act the following section shall be inserted, namely:—

"48-A. *Life Insurance agents not to be directors of life insurance companies.*—No insurance agent who solicits or procures life insurance business, and no person acting on behalf of an insurer who for the purpose of life insurance business employs insurance agents, shall be eligible to be or remain a director of any insurance company carrying on life insurance business:

Provided that any director holding office at the commencement of the Insurance (Amendment) Act, 1946, shall not become ineligible to remain a direcor by reason of this section until the expiry of six months from the commencement of that Act."

Insertion of new section 53-A in Act IV of 1938.

25. After section 53 of the said Act the following section shall be inserted, namely:—

"53-A. *Unpaid-up share capital.*—Notwithstanding anything contained in any other law, in ascertaining for any purpose of this Act the solvency or otherwise of an insurer, no account shall be taken of any assets of the insurer consisting of unpaid-up share capital."

Amendment of section 58, Act IV of 1938.

26. To section 58 of the said Act, the following sub-section shall be added, namely:—

"(5) When making an order confirming a scheme under this section, the Court may make such orders as it considers necessary for the disposal of so much of the deposit made by the company under section 7 or section 98 as does not relate to the classes of insurance business, if any, which the company continues to carry on."

Amendment of section 59, Act IV of 1938.

27. In section 59 of the said Act, after the words "insurance company" the brackets, words and figures "(otherwise than in a case to which section 58 applies)" shall be inserted.

Amendment of section 65, Act IV of 1938.

28. In sub-section (1) of section 65 of the said Act,—

(*a*) in clause (*a*), for the words "fifty" the words "one hundred" shall be substituted;

(*b*) in clause (*b*), for the words "five hundred" the words "nine hundred" shall be substituted.

Amendment of section 70, Act IV of 1938.

29. In section 70 of the said Act,—

(*a*) in sub-section (2),—

(*i*) in clause (*d*), after the word "affidavit" the words "made by the principal officer of the society authorised in that behalf" shall be inserted;

(*ii*) in clause (*e*), for the words "prescribed fee" the words "receipt showing payment in the prescribed manner of the prescribed fee" shall be substituted;

(*b*) in sub-section (3), for the words and figures "minimum working capital required by section 72 is available", the words, figures and letter "society complies with the provisions of sections 67, 71, 72, 73 and 73-A", shall be substituted;

(*c*) in sub-section (4),—

(*i*) in clause (*a*), after the word "satisfied" the words "from the returns furnished under the provisions of this Act or" shall be inserted;

(*ii*) after clause (*b*) of the second proviso the following word and clause shall be inserted, namely:—

"or

(*c*) cancel the registration of a provident society if he has reason to believe that any claim upon the society arising in India under any policy of insurance remains unpaid for three months after final judgment in regular course of law";

(*d*) in sub-section (6),—

(*i*) after the word, brackets and figure "sub-section (4)," the words, brackets and letter "or clause (*c*) of the second proviso to that sub-section," shall be inserted;

(*ii*)) after the word and figures "section 73" the words, brackets and letter "or satisfies the Superintendent of Insurance that no claim upon it such as is referred to in the said clause (*c*) remains unpaid" shall be inserted;

(*e*) after sub-section (6) the following sub-section shall be inserted, namely:—

"(7) The Superintendent of Insurance may, on payment of the prescribed fee which shall not exceed five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary."

Substitution of new section for section 71, Act IV of 1938.

30. For section 71 of the said Act the following section shall be substituted, namely:—

"71. *Certain provisions of Part II to apply to provident societies.*—The provisions of sections 20, 32, 46 and 58-A shall apply to provident societies as they apply to insurers, and in such application references to shareholders of an insurer shall be construed as references to members of a provident society:

Provided that a provident society may charge a fee not exceeding one rupee for supplying a copy of any document referred to in sub-section (2) of section 20."

Amendment of section 78, Act IV of 1938.

31. In sub-section (1) of section 78 of the said Act, for the words "gross premium income for the preceding calendar year" the words "premium income for the preceding calendar year as shown in the revenue account of the society" shall be substituted.

Insertion of new section 78-A in Act IV of 1938.

32. After section 78 of the said Act the following section shall be inserted, namely:—

"78-A. *Restriction on name of provident society.*—(1) A provident society shall not be registered by a name identical with that by which an insurer or another provident society in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except when the provident society in existence is in the course of being dissolved and signifies its consent, or the insurer in existence signifies his consent, to the Superintendent of Insurance.

(2) If a provident society, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer or another provident society already in existence is registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned society shall, if called upon to do so by the Superintendent of Insurance on the application of the insurer or the second-mentioned society, change its name within a time to be fixed by the Superintendent of Insurance:

Provided that nothing in this section shall apply to any provident society carrying on business before the commencement of the Insurance (Amendment) Act, 1946."

Amendment of section 81, Act IV of 1938.

33. In sub-section (1) of section 81 of the said Act, after the word "made" the words "as at the last day of a calendar year" shall be inserted.

Amendment of section 82, Act IV of 1938.

34. In sub-section (1) of section 82 of the said Act, the words beginning "and copies of the revenue account" and ending "a fee of one rupee" shall be omitted.

Amendment of section 85, Act IV of 1938.

35. In section 85 of the said Act—

(*a*) in sub-section (1), for the word "Government" the word "approved" shall be substituted;

(*b*) in sub-section (2), after the word and figures "section 78", the words "or under the law of any state or country relating to insurance" shall be inserted;

(*c*) to sub-section (3) the following proviso shall be added, namely:—

"Provided that nothing in this sub-section shall apply to loans made by a provident society to a banking company:

Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this sub-section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946 whichever is later; and in case of default, the director, manager, auditor, actuary or partner concerned shall, without prejudice to any other penalty which he may incur cease to hold office in the society on the expiry of the said three months."

Amendment of section 86, Act IV of 1938.

36. In section 86 of the said Act, for the words "has made an application in this behalf to the Superintendent of Insurance" the words "has, on application in this behalf, been permitted, by the Superintendent of Insurance, subject to such conditions, if any, as he may impose, to make such inspection" shall be substituted.

Amendment of section 87, Act IV of 1938.

37. In section 87 of the said Act,—

(*a*) in sub-section (1), for the words "solvency of the society and the manner in which the business of the society is conducted", the words "affairs of the society" shall be substituted;

(*b*) after sub-section (4) the following sub-sections shall be inserted, namely:—

"(5) The Superintendent of Insurance may by notice in writing require the provident society to comply within a time to be specified therein (not being less than fifteen days from the receipt of the notice by the society) with any directions he may issue to remedy defects disclosed by an inquiry under this section.

(6) If the society fails to comply with any directions issued under sub-section (5), the Superintendent of Insurance may, after giving notice to the society and giving it an opportunity to be heard, apply to the Court for the winding up of the society."

Insertion of new section 87-A in Act IV of 1938.

38. After section 87 of the said Act the following section shall be inserted, namely:—

"87-A. *Amalgamation and transfer of insurance business.*—(1) The insurance business of a provident society may be transferred to any person or transferred to or amalgamated with the insurance business of any other provident society in accordance with a scheme prepared under this section and sanctioned by the Superintendent of Insurance.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Superintendent of Insurance to sanction any such scheme, notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor, shall at least two months before the application is made, be sent to the Superintendent of Insurance and certified copies, four in number, of each of the following documents shall be furnished to him, and other such copies shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices of the provident societies concerned, namely:—

(a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer,

(b) balance-sheets in respect of the insurance business of each of the provident societies concerned in such amalgamation or transfer,

(c) acturial reports and abstracts in respect of the insurance business of each of the provident societies so concerned,

(d) a report on the proposed amalgamation or transfer, prepared by an independent actuary.

(e) any other reports on which the scheme of amalgamation or transfer was founded; and the balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Superintendent of Insurance is to take effect, which date shall not be more than twelve months before the date on which the application to the Superintendent of Insurance is made under this section:

Provided that the Superintendent of Insurance may exempt the provident society or societies concerned from furnishing to him and from keeping open for inspection any one or more of the above documents.

(4) When any application such as is referred to in sub-section (3) is made to the Superintendent of Insurance, he may require, if for special reasons he so directs, notice of the application to be sent to every person resident in British India or in an Indian State who is the holder of a policy of any provident society concerned and may cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such periods as he may direct, and after hearing the societies concerned, such policy-holders as apply to be heard and such other persons as he may deem fit, may sanction the arrangement if he is satisfied that no sufficient objection to the arrangement has been established and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 73:

Provided that—

(a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement the whole of the deposit to be made by the provident society carrying on the amalgamated business or the person to whom the business is transferred is completed;

(b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a);

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the provident society carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from it or him under section 73.

(5) A copy of the order under sub-section (4) sanctioning or refusing to sanction the arrangement shall be sent to each of the societies concerned and to each of the policy-holders who applied to be heard.

(6) If the scheme involves a reduction of the amount of the insurance and other contracts of the transfer or society or of any or all of the societies concerned in the amalgamation, the Superintendent of Insurance may sanction the scheme, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of the contracts as sanctioned by the Superintendent of Insurance shall be valid and binding on all the parties concerned."

Amendment of section 88, Act IV of 1938.

39. For sub-section (2) of section 88 of the said Act the following sub-section shall be substituted, namely:—

"(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society if the Superintendent of Insurance, who is hereby authorised to do so, applies in this behalf to the court on any of the following grounds, namely:—

(a) that the registration of the society has been cancelled under sub-section (4) of section 70;

(b) that it appears from the returns furnished under the provisions of this Act or as the result of an inquiry made under section 87 that the society is insolvent;

(c) that the continuance of the society is prejudicial to the interests of the policy-holders.".

Insertion of new section 90-A in Act IV of 1938.

40. After section 90 of the said Act the following section shall be inserted, namely:—

"90-A. *Application of Act to liquidators.*—Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), the provisions of sections 91, 92 and 93 shall apply to any liquidator appointed to wind up a provident society, whether by the Court, the Superintendent of Insurance or the society itself".

Amendment of section 92, Act IV of 1938.

41. In sub-section (4) of section 92 of the said Act, for the words "if so desired," the words "determine the remuneration to be paid to him, and if so desired, shall also appoint" shall be substituted.

Amendment of section 94, Act IV of 1938.

42. In sub-section (1) of section 94 of the said Act, after the word, brackets and letter "clause (a)" the words, brackets and figure "of sub-section (2)" shall be inserted.

Amendment of section 98, Act IV of 1938.

43. In sub-section (2) of section 98 of the said Act, for the words "gross premium income received in the previous calendar year" the words "premium income in the preceding calendar year as shown in the revenue account" shall be substituted.

Insertion of new section 98-A in Act IV of 1938.

44. After section 98 of the said Act the following section shall be inserted, namely:—

"98-A. *Prohibition of loans.*—The provisions of section 29 shall apply to Co-operative Life Insurance Societies as they apply to other insurers, so however that in such application the references in the second proviso to sub-section (1) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment), Act, 1946."

Amendment of section 105, Act IV of 1938.

45. In sub-section (1) of section 105 of the said Act, after the words "by this Act shall," the words "on the complaint of the Superintendent of Insurance made after giving the insurer not less than fifteen days' notice of his intention, or" shall be inserted.

Amendment of section 110, Act IV of 1938.

46. In sub-section (1) of section 110 of the said Act, for clause (c) the following clause shall be substituted, namely:—

"(c) an order under section 87 or section 87-A;".

Amendment of section 116-A, Act IV of 1938.

47. In the proviso to section 116-A of the said Act, for the word "statements" the words, brackets and figures "statement referred to in sub-section (2) of section 10 or the returns" shall be substituted.

Amendment of Third Schedule, Act IV of 1938.

48. In the Third Schedule to the said Act,—

(a) for regulation 7 the following regulation shall be substituted, namely:—

"7. In addition to the revenue account, information shall be supplied of the gross premium written direct in India, that is, the premium income without taking into account premiums on reinsurances ceded or accepted, for every class or sub-class of business in respect of which the insurer is required to maintain a separate acount";

(b) in Form D,—

(i) in the first column, under the heading "Expenses of Management", item 11 shall be omitted; and items 12 and 13 shall be renumbered as items 11 and 12 respectively;

(ii) in the fifth column, for the words "First year premiums" the following shall be substituted, namely:—

"First year premiums, where the maximum premiums-paying period (g) is—

two years.	nine years . . . . . .
three years.	ten years . . . . .
four years.	eleven years . . . . . .
five years	twelve years or over (including through-out life) . . . . . .":
six years	
seven years.	
eight years	

(*iii*) after note (*f*) the following note shall be inserted, namely:—

"(*g*) Where the maximum premiums-paying period includes a fraction of a year, such fraction shall be ignored for the purposes of this revenue account";

(*c*) in Form DDD, after the words "separate revenue account is submitted" the words "and all amounts stated shall be total gross amounts without taking into account reinsurances ceded or accepted" shall be inserted;

(*d*) in Form DDDD—

(*i*) in the heading, for the words "*less those*" the words "*and of policies*" shall be substituted;

(*ii*) in the table, for the column headings the following shall be substituted, namely:—

"Year in which the policies were issued.	Number of policies forfeited or lapsed.	Sum insured under policies in column (2).	Number of policies revived and reinstated for full benefits.	Sum insured under policies in column (4).
(1)	(2)	(3)	(4)	(5)
		Rs.		Rs."

(*iii*) after the words "separate revenue account is submitted" the words "and all amounts stated shall be total gross amounts without taking into account reinsurances ceded or accepted" shall be inserted.

THE INDIAN FINANCE ACT, 1946.

ACT No. VII OF 1946.

30*th March*, 1946

An Act to give effect to the financial proposals of the Central Government for the year beginning on the 1st day of April, 1946.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, British India, to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to continue, subject to certain modifications, for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), to alter the duty of customs on cinematograph films, raw cotton and silver, to withdraw the duty of customs on raw cotton levied under the Cotton Fund Ordinance, 1942 (VIII of 1942), to impose a duty of customs on gold, to alter the duty of customs and the duty of excise on betel-nuts, motor spirit, kerosene and mineral oils, to fix rates of income-tax and super-tax, and to make certain provisions relating to income-tax, super-tax and excess profits tax; it is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE INDIAN FINANCE ACT, 1946.

(2) It extends to the whole of British India.

Fixation of salt duty.

2. The duty on salt manufactured in, or imported by land into, British India shall, for the year beginning on the 1st day of April, 1946, be at the rate of one rupee and nine annas per standard maund.

Inland postage rates.

3. For the year beginning on the 1st day of April, 1946, the Schedule contained in the First Schedule to the Indian Finance Act, 1945, shall again be inserted in the Indian Post Office, Act, 1898 (VI of 1898), as the First Schedule to that Act.

Amendment of section 4, Indian Finance Act, 1945.

4. (1) To sub-section (2) of section 4 of the Indian Finance Act, 1945, the following shall be added, namely:—

"or, after the 28th day of February, 1946, on kerosene and mineral oils, comprised in Items Nos. 27 (4) and 27 (5) of the said Schedule."

(2) The provisions of his section shall be deemed to have come into force on the 28th day of February, 1946.

Continuation of, and enhancement of, additional duties of customs imposed by section 6, Act XII of 1942.

5. (1) The additional duties of customs on certain goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force, imposed up to the 31st day of March, 1943 by section 6 of the Indian Finance Act, 1942, and continued, subject to certain modifications, up to the 31st day of March, 1946, by section 4 of the Indian Finance Act, 1945, as amended by section 4 of this Act, shall continue to be levied and collected as provided in the said

section 6 up to the 31st day of March, 1947, subject to the aforesaid modifications and to the further modifications contained in sub-section (2).

(2) The additional duty to be levied and collected under sub-section (1) shall be one-half instead of one-fifth of the amount of the duty of customs specified in the First Schedule to the Indian Tariff Act, 1934, in the case of wines, comprised in Item No. 22 (3) of the said Schedule; and no such additional duty shall be levied or collected on—

(a) betelnuts, comprised in Item No. 9 (5),

(b) cinematograph films, not exposed and exposed, comprised in Items Nos. 29 and 29 (1),

(c) raw cotton, comprised in Item No. 46 (3),

(d) silver bullion and silver sheets and plates which have undergone no process of manufacture subsequent to rolling, and silver coin, not otherwise specified, comprised in Items Nos. 61 (2) and 62 (1),

(e) gold bullion and gold sheets and plates which have undergone no process of manufacture subsequent to rolling, and gold coin, comprised in items Nos. 61 (4) and 62 (2) of the said Schedule.

Imposition and alteration of certain duties of customs.

6. In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934),—

(a) in Item No. 9 (5), for the entries in the fourth and sixth columns, the entries "Five annas per lb." and "Four annas and six pies per lb." shall be respectively substituted;

(b) in Item No. 29, for the entry in the fourth column, the entry "Three pies per linear foot" shall be substituted;

(c) in Item No. 29 (1), for the entry in the fourth column, the entry "Four annas per linear foot" shall be substituted;

(d) in Item No. 46 (3), for the entry in the fourth column, the entry "Two annas per lb." shall be substituted;

(e) in Items Nos. 61 (2)) and 62 (1), in the fourth column, for the word "Three" the word "Eight" shall be substituted;

(f) in Items Nos. 61 (3) and 62 (2)—

(i) in the third column the word "Revenue" shall shall be inserted, and

(ii) for the entry in the fourth column, the following entry shall be substituted, namely:—

"Rs. 25 per tola of 180 grains fine".

Alteration of duty of customs on kerosene and mineral oils.

7. In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in Items Nos. 27 (4) and 27 (5), in the fourth column, the words "and nine pies" shall be omitted.

Alteration of duty of excise on motor spirit.

8. (1) In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), in Item No. 4, for the word "Fifteen" the word "Twelve" shall be substituted.

(2) The provisions of this section shall be deemed to have come into force on the 1st day of March, 1946.

Alteration of duty of excise on betelnuts.

9. In the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), in Item No. 12, for the words "Two annas" the words "One anna" shall be substituted.

Repeal of Ordinance VIII of 1942.

10. The Cotton Fund Ordinance, 1942, is hereby repealed:

Provided that the repeal of the said Ordinance shall not prejudice the power of the Central Government to utilise the balance at the credit of the fund established thereunder for the purposes set out in section 3 of that Ordinance.

Income-tax and super-tax.

11. (1) Subject to the provisions of sub-sections (3), (4), (5), (6) and (7),—

(a) income-tax for the year beginning on the 1st day of April, 1946 shall be charged at the rates specified in Part I of the Schedule, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1946 shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of the Schedule.

(2) In making any assessment for the year ending on the 31st day of March, 1947, there shall be deducted from the total income of an assessee, in accordance with the provisions of section 15-A of the Indian Income-tax Act, 1922, an amount equal to—

(i) one-tenth of the earned income chargeable under the head "Salaries" which is included in his total income, subject to a maximum of two thousand rupees, plus

(ii) one-fifth of the earned income other than the income chargeable under the head "Salaries" which is included in his total income:

Provided that the aggregate amount to be deducted under this sub-section shall not in any case exceed four thousand rupees.

(3) In making any assessment for the year ending on the 31st day of March, 1947,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" as reduced by the deduction for earned income appropriate thereto, or any income chargeable under the head "Interest on Securities", or any income from dividends in respect of which he is deemed under section 49-B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1946, on his total income the same proportion as the amount of such inclusions bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusion shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1946, on his total income the same proportion as the amount of such inclusion bears to his total income.

(4) In making any assessment for the year ending on the 31st day of March, 1947, where the total income of an assessee consists partly of earned income and partly of unearned income, the super-tax payable by him shall be—

(i) on that part of the earned income chargeable under the head "Salaries" to which clause (b) of sub-section (3) applies, the amount of super-tax computed in accordance with the provisions of that clause, plus

(ii) on the remainder of the earned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of earned income the same proportion as such remainder bears to his total income, plus

(iii) on the unearned income, the amount which bears to the total amount of super-tax which would have been payable on his total income had it consisted wholly of unearned income the same proportion as the unearned income bears to his total income.

(5) Where the total income of an assessee referred to in paragraph A of Part I of the Schedule does not exceed six thousand rupees and includes any income to which clause (a) of sub-section (3) applies, the income-tax payable by the assessee on such inclusion as computed in accordance with the provisions of that clause shall be reduced by an amount representing one rupee for every complete unit of two hundred rupees of such inclusion as reduced by the amount of income, if any, exempt under the second proviso to sub-section (1) of section 7, section 15, and sub-section (1) of section 58-F, of the Indian Income-tax Act, 1922:

Provided that the reduction to be made under this sub-section shall not in any case exceed two-fifths of the income-tax otherwise payable on such inclusion:

Provided further that if there is an incomplete unit of such inclusion amounting to one hundred rupees or more, it shall for the purposes of this sub-section be reckoned as a complete unit of two hundred rupees.

(6) In making any assessment for the year ending on the 31st day of March, 1947,—

(a) where the total income of a company includes any profits and gains from life insurance business, the super-tax payable by the company shall be reduced by an amount computed at the rate of one anna in the rupee on that part of its total income which consists of such inclusion;

(b) where the total income of an assessee, not being a company, includes any profits and gains from life insurance business, the income-tax and super-tax payable by the assessee on that part of his total income which consists of such inclusion shall be an amount bearing to the total amount of such taxes payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusion bears to his total income, so however that the aggregate of the taxes so computed in respect of such inclusion shall not in any case exceed the amount of tax payable on such inclusion at the rate of five annas in the rupee.

(7) In cases to which section 17 of the Indian Income-tax Act, 1922 applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section and in accordance, where applicable, with the provisions of sub-sections (3), (4), (5) and (6) of this section.

(8) For the purposes of making any deduction of income-tax in the year beginning on the 1st day of April, 1946, under sub-section (2) or sub-section (2-B) of section 18 of the Indian Income-tax Act, 1922, from any earned income chargeable under the head "Salaries", the estimated total income of the assessee under this head shall, in computing the income-tax to be deducted, be reduced by an amount equal to one-fifth of such earned income but not exceeding in any case four thousand rupees.

(9) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922, and the expression "earned income" has the meaning assigned to it in clause (6-AA) of section 2 of that Act.

(10) If any provision is made in the Indian Income-tax Act, 1922, for the allowance of expenditure on scientific research related to the business carried on by an assessee, then any such expenditure incurred by him in the previous year for the assessment for the year ending on the 31st day of March, 1946 shall, for the purposes of that provision and in accordance therewith, be deemed to be expenditure incurred in the previous year for the assessment for the year ending on the 31st day of March, 1947, and shall be added to the amount of such expenditure, if any, in that previous year.

(11) Any sum being excess profits tax repaid in respect of any chargeable accounting period under the provisions of section 10 of the Indian Finance Act, 1942, or of section 2 of the Excess Profits Tax Ordinance, 1943 (XVI of 1943), shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall, notwithstanding the provisions of section 34 of that Act be treated as income of the previous year which constitutes or includes the chargeable accounting period in respect of which the said sum is repayable:

Provided that any such sum repaid in respect of any profits which are also assessable to excess profits tax under the law in force in the United Kingdom shall be treated, for the purpose of assessment to income-tax and super-tax, as income of the previous year during which the repayment is made.

(12) The Income-tax Officer shall calculate the amount of income-tax and super-tax payable in respect of each sum referred to in sub-section (11), and such amount shall be deducted from the said sum at the time that it is repaid, and where the regular assessment proceedings for the appropriate assessment year are not complete, the tax so deducted shall be treated as a payment of income-tax or super-tax, as the case may be, for the purposes of sub-section (5) of section 18 of the Indian Income-tax Act, 1922.

(13) Any person objecting to the amount of a deduction made under sub-section (12) may appeal to the Appellate Assistant Commissioner within thirty days of the receipt of the repayment order, and the provisions of sections 30, 31 and 33 of the Indian Income-tax Act, 1922, shall apply as if such appeal were an appeal under the first-mentioned section.

(14) Where under the provisions of sub-section (2) of section 12 of the Excess Profits Tax Act, 1940 (XV of 1940), excess profits tax, payable under the law in force in the United Kingdom has been deducted in computing for the purposes of income-tax and super-tax the profits and gains of any business, the amount of any repayment under sub-section (1) of section 28 of the Finance Act, 1941 (4 & 5 Geo. 6, c. 30), as amended by section 37 of the Finance Act, 1942 (5 & 6 Geo. 6, c. 21), in respect of those profits, shall be deemed to be income for the purposes of the Indian Income-tax Act, 1922, and shall, for the purpose of assessment to income-tax and super-tax, be treated as income of the previous year during which the repayment is made.

Excess profits tax.

12. If any provision is made in clause (vi) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (XI of 1922), to allow in respect of depreciation a further sum which is not deductible in determining the written down value, then such sum shall not be included in the allowances made in computing profits for the purposes of the Excess Profits Tax Act, 1940 (XV of 1940).

Amendment of section 10. Act XII of 1942.

13. (1) To sub-section (1) of section 10 of the Indian Finance Act, 1942, the following further proviso shall be added, namely:—

"Provided further that no such further sum herein referred to shall be deposited with the Central Government after the 28th day of February, 1946."

(2) The provisions of this section shall be deemed to have come into force on the 28th day of February, 1946.

THE SCHEDULE.

(*See* section 11.)

PART I.

RATES OF INCOME-TAX.

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income	Nil.
2. On the next Rs. 3,500 of total income	One anna in the rupee.
3. On the next Rs. 5,0 0 of total income	Two annas in the rupee.
4. On the next Rs. 5,000 of total income	Three and a half annas in the rupee.
5. On the balance of total income	Five annas in the rupee.

Provided that—

(*i*) no income-tax shall be payable on a total income which, before deduction of the allowance, if any, for earned income, does not exceed Rs. 2,000;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income (before deduction of the said allowance, if any, for earned income) exceeds Rs. 2,000;

(*iii*) the income-tax payable on the total income as reduced by the allowance for earned income shall not exceed either—

(*a*) a sum bearing to half the amount by which the total income (before deduction of the allowance for earned income) exceeds Rs. 2,000 the same proportion as such reduced total income bears to the unreduced total income, or

(*b*) the income-tax payable on the income so reduced at the rates specified in this Schedule,

whichever is less.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.
On the whole of total income	Five annas in the rupee.

PART II.

RATES OF SUPER-TAX.

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B or paragraph C or paragraph D of this Part applies—

	Rate, if income wholly earned.	Rate, if income wholly unearned.
1. On the first Rs. 25,000 of total income ..	Nil.	Nil.
2. On the next Rs. 10,000 of total income ..	Two annas in the rupee.	Three annas in the rupee.
3. On the next Rs. 10,000 of total income ..	Three annas in the rupee.	Four annas in the rupee.
4. On the next Rs. 15,000 of total income ..	Four annas in the rupee.	Five annas in the rupee.
5. On the next Rs. 20,000 of total income ..	Five annas in the rupee.	Six annas in the rupee.
6. On the next Rs 30,000 of total income ..	Six annas in the rupee.	Seven annas in the rupee.
7. On the next Rs. 40,000 of total income ..	Seven annas in the rupee.	Eight annas in the rupee.
8. On the next Rs. 50,000 of total income ..	Eight annas in the rupee.	Nine annas in the rupee.
9. On the next Rs. 50,000 of total income ..	Nine annas in the rupee.	Nine and a half annas in the rupee.
10. On the next Rs. 1,00,000 of total income ..	Nine and a half annas in the rupee.	Ten annas in the rupee.
11. On the next Rs. 1,50,000 of total income ..	Ten annas in the rupee.	Ten and a half annas in the rupee.
12. On the balance of total income ..	Ten and a half annas in the rupee.	Ten and a half annas in the rupee.

B.—In the case of every local authority—

	Rate.
On the whole of total income	One anna in the rupee.

C.—In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of co-operative societies—

	Rate.
1. On the first Rs. 25,000 of total income	Nil.
2. On the balance of total income	One anna in the rupee.

(D.—In the case of every company—

On the whole total income	One anna in the rupee.

and in addition, in respect of that part of the total income as reduced by the amount of dividends payable at a fixed rate) which does not exceed the amount of dividends, not being dividends payable at a fixed rate, declared in British India in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1947,—

on the amount by which such part—

	Rate.
(a) exceeds 30 per cent. but does not exceed 40 per cent. of the total income as so reduced.	Two annas in the rupee.
(b) exceeds 40 per cent. but does not exceed 45 per cent. of the total income as so reduceed.	Three annas in the rupee.
(c) exceeds 45 per cent. but does not exceed 50 per cent of the total income as so reduced.	Four annas in the rupee.
(d) exceeds 50 per cent. but does not exceed 55 per cent. of the total income as reduced.	Five annas in the rupee.
(e) exceeds 55 per cent. but does not exceed 60 per cent. of the total income as so reduced.	Six annas in the rupee.
(f) exceeds 60 per cent. of the total income as so reduced ..	Seven annas in the rupee.

Provided that—

(i) no additional super-tax shall be payable where such part is less than, or equal to, five per cent. on the capital of the company;

(ii) where such part is more than five per cent. on the capital of the company, the additional super-tax payable shall be reduced by the amount of additional super-tax which would, but for the provisions of clause (i) of this proviso, have been payable had such part been equal to five per cent. on the capital of the company;

(iii) where any dividends (not being dividends payable at a fixed rate) have been declared before the 1st day of March, 1946 in respect of the whole or part of the previous year for the assessment for the year ending on the 31st day of March, 1947, and the amount of super-tax computed at the rates set out in this paragraph exceeds the amount of super-tax which would be payable by the company at the rate specified in the Indian Finance Act, 1945, such proportion of the amount of super-tax computed under this paragraph as the amount of dividends declared before the 1st day of March, 1946 bears to the total amount of dividends declared in respect of the said previous year (not being dividends payable at a fixed rate) shall be so reduced as not to exceed the same proportion of the super-tax computed at the rate specified in the Indian Finance Act, 1945;

(iv) the additional super-tax shall be payable only by a company in which the public are substantially interested within the meaning of the *Explanation* to sub-section (1) of section 23-A of the Indian Income-tax Act, 1922, or a subsidiary company of such a company where the whole of the share capital of such subsidiary company is held by the parent company or by the nominee thereof.

Explanation.—For the purposes of this paragraph,—

(a) the expression "capital of the company" shall be deemed to mean the paid-up share capital at the beginning of the previous year for the assessment for the year ending on the 31st day of March, 1947 (other than capital entitled to a dividend at a fixed rate) plus any reserves other than depreciation reserves and reserves for bad or doubtful debts at the same date as diminished by the amount on deposit on the same date with the Central Government under section 10 of the Indian Finance Act, 1942, or section 2 of the Excess Profits Tax Ordinance, 1943;

(b) the expression "dividend" shall be deemed to include any distribution included in the expression "dividend" as defined in clause (6-A) of section 2 of the Indian Income-tax Act, 1922, and any such distribution made during the year ending on the 31st day of March, 1947, shall be deemed to have been made in respect of the whole or part of the previous year;

.. ..

(c) where any portion of the profits and gains of a company is not included in its total income, by reason of such portion being exempt from tax under any provision of the Indian Income-tax Act, 1922, the capital of the company, the total amount of dividends and the amount of dividends payable at a fixed rate shall each be deemed to be the proportion thereof that the total income of the company bears to its total profits and gains.

THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1946.

ACT No. VIII OF 1946.

[18th April, 1946.

An Act further to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922 (XI of 1922) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1946.

(2) It shall come into force on such date as the Central Government may by notification in the official Gazette appoint.

Amendment of section 4, Act XI of 1922.

2. In sub-section (3) of section 4 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), after clause (xi) the following clause shall be inserted, namely:—

"(xii) Any income chargeable under the head "Income from property" in respect of a building the erection of which is begun and completed between the 1st day of April, 1946 and the 31st day of March, 1948 (both dates inclusive), for a period of two years from the date of such completion."

Amendment of section 10, Act XI of 1922.

3. In section 10 of the said Act,—

(a) in sub-section (2),—

(i) in clause (vi), after the words "cases be prescribed" where they occur for the second time, the following shall be inserted namely:—

"and where the buildings have been newly erected, or the machinery or plant being new has been installed, after the 31st day of March, 1945, a further sum (which shall however not be deductible in determining the written down value for the purposes of this clause) in respect of the year of erection or installation equivalent,—

(a) in the case of buildings the erection of which is begun and completed between the 1st day of April, 1946 and the 31st day of March, 1948 (both dates inclusive), to fifteen per cent. of the cost thereof to the assessee;

(b) in the case of other buildings, to ten per cent. of the cost thereof to the assessee;

(c) in the case of machinery or plant, to twenty per cent. of the cost thereof to the assessee:"

(ii) for clause (vii) the following clause shall be substituted, namely:—

"(vii) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold or its scrap value:

Provided that such amount is actually written off in the books of the assessee:

Provided further that where the amount for which any such building, machinery or plant is sold exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place:

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant which has been discarded or demolished or destroyed, and the amount of such moneys does not exceed the written down value, the amount allowable under this clause shall be the amount, if any, by which the difference between the written down value and the scrap value exceeds the amount of such moneys:

Provided further that where any insurance, salvage or compensation moneys are received in respect of any such building, machinery or plant as aforesaid, and the amount of such moneys exceeds the difference between the written down value and the scrap value no amount shall be allowable under this clause and so much of the excess as does not exceed the difference between the original cost and the written down value less the scrap value shall be deemed to be profits of the previous year in which such moneys were received:

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the first proviso to sub-section (5), shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of the business, profession or vocation;"

(*iii*) clause (*xii*) shall be renumbered as clause (*xv*), and after clause (*xi*) the following clauses shall be inserted, namely:—

"(*xii*) any expenditure (not being in the nature of capital expenditure) laid out or expended on scientific research related to the business;

(*xiii*) any sum paid to a scientific research association having as its objects the undertaking of scientific research related to the class of business carried on, and any sum paid to a university, college or other institution to be used for such scientific research:

Provided that such association, university, college or institution is for the time being approved for the purposes of this clause by the prescribed authority;

(*xiv*) in respect of any expenditure of a capital nature on scientific research related to the business, an allowance for each of the five consecutive previous years beginning with the year in which the expenditure was incurred, or where the expenditure was incurred prior to the commencement of the business, for each of the five consecutive previous years beginning with the year in which the business was commenced, equal to one-fifth of such expenditure:

Provided that no allowance shall be made for any expenditure incurred more than three years before the commencement of the business:

Provided further that—

(*a*) where an asset representing scientific research expenditure of a capital nature ceases to be used for scientific research related to such business—

(*i*) no allowance shall be made in respect of any previous year after the previous year in which the cessation takes place, and

(*ii*) if the aggregate of the amounts allowed under this clause added to the value of the asset immediately before the cessation is less than the said expenditure, there shall also be allowed in respect of the previous year in which the cessation takes place an additional deduction equal to the difference;

(*b*) where such asset is sold without having been used for other purposes, the sale proceeds shall be taken to be the value of the asset immediately before the cessation, and if an additional allowance or a greater additional allowance would have been made in respect of the previous year in which the cessation occurred on the basis of that value, an amount equal to the additional allowance which would have been made or, as the case may be, to the difference between the additional allowance which would have been made and the additional allowance which was made for that year shall be made in respect of the previous year in which the sale occurs;

(*c*) where the proceeds of the sale plus the total amount of the allowances made under this clause exceed the amount of the expenditure, the excess or the amount of the allowances so made, whichever is the less, shall be treaed as a receipt of the business accruing at the time of the sale;

(*d*) where a deduction is allowed for any previous year under this clause in respect of expenditure represented wholly or partly by any asset, no deduction shall be allowed under clause (*vi*) or clause (*vii*) for the same previous year in respect of that asset;

(*e*) where an asset is used in the business after it ceases to be used for scientific research related to that business, and a claim for an allowance under clause (*vi*), or clause (*vii*) is made in respect of that asset, the actual cost to the assessee of the asset shall be treated as reduced by the amount of any deductions allowed under this clause;

(*f*) clause (*b*) of the proviso to clause (*vi*) shall apply in relation to deductions allowable under this clause as it applies in relation to deductions allowable in respect of depreciation;

(*g*) if any question arises under clause (*xii*), clause (*xiii*) or this clause as to whether, and if so to what extent, any activity constitutes or constituted or any asset is or was being used for, scientific research, the Central Board of Revenue shall refer the question to the prescribed authority, whose decision shall be final;

Explanation.—In clause (*xii*), clause (*xiii*) and this clause—

(*i*) "scientific research" means any activities in the fields of natural or applied science for the extension of knowledge;

(*ii*) references to expenditure incurred on scientific research do not include any expenditure incurred in the acquisition of rights in, or arising out of, scientific research, but, save as aforesaid, include all expenditure incurred for the prosecuton of, or the provision of facilities for the prosecution of, scientific research;

(*iii*) references to scientific research related to a business or class of business include—

(*a*) any scientific research which may lead to or facilitate an extension of that business or, as the case may be, all businesses of that class;

(*b*) any scientific research of a medical nature which has a special relation to the welfare of workers employed in that business or, as the case may be, businesses of that class;"

(*b*) in sub-section (5), after the word "Provided" in the proviso, the word "further" shall be inserted, and before the said proviso the following proviso shall be inserted namely:—

"Provided that in the case of a building previously the property of the assessee and brought into use for the purposes of the business, profession or vocation after the 28th day of February, 1946, 'written down value' means the actual cost to the assessee reduced by an amount equal to the depreciation calculated at the rate in force on that date that would have been allowable had the building been used for the aforesaid purposes since the date of its acquisition by the assessee and had the provisions of this Act relating to the allowance for depreciation been in force on and from the date of acquisition."

Amendment of section 12, Act XI of 1922.

4. In sub-section (4) of section 12 of the said Act, for the brackets, figures and word "(*v*) and (*vi*)" the brackets, figures and word "(*v*), (*vi*), and (*vii*)" shall be substituted.

Amendment of section 41, Act XI of 1922.

5. In sub-section (1) of section 41 of the said Act, to the first proviso the following shall be added, namely:—

"but, where such persons have no other personal income chargeable under this Act and none of them is an artificial juridical person, as if such income, profits or gains or such part thereof were the total income of an association of persons".

THE INDIAN OILSEEDS COMMITTEE ACT, 1946.

ACT NO. IX OF 1946.

[18*th April*, 1946.

An Act to provide for the creation of a fund to be expended by a Committee specially constituted for the improvement and development of the cultivation and marketing of oilseeds and of the production, manufacture and marketing of oilseed products.

WHEREAS it is expedient to provide for the creation of a fund to be expended by a Committee specially constituted in this behalf for the improvement and development of the cultivation and marketing of oilseeds and of the production, manufacture and marketing of oilseed products;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE INDIAN OILSEEDS COMMITTEE ACT, 1946.

(2) It extends to the whole of British India.

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context—

(*a*) "approved growers' association" means an association of growers approved by resolution of the Committee for the purposes of clause (*g*) of section 4;

(*b*) "Collector" means the officer appointed by the Central Government to perform in any specified area the duties of a Collector under the provisions of this Act and the rules made thereunder, and includes any officer subordinate to that officer whom he may by order in writing authorise to perform his duties under those provisions;

(*c*) "the Committee" means the Indian Oilseeds Committee constituted under this Act;

(*d*) "Fund" means the Oilseeds Improvement Fund referred to in sub-section (2) of section 8;

(*e*) "grower" means an agriculturist who grows oilseeds, with or without the aid of hired labour;

(*f*) "mill" means any place in which oilseeds are crushed with the aid of power, which is a factory as defined in section 2 of the Factories Act, 1934 (XXV of 1934);

(*g*) "oilseeds" does not include coconuts;

(*h*) "prescribed" means prescribed by rules made under this Act.

Imposition of oilseeds cess.

3. (1) There shall be levied and collected on and after the date of the commencement of this Act as cesses for the purposes of this Act,—

(*a*) on all oils extracted from oilseeds crushed in any mill in British India, whether the oilseeds are produced in or imported from outside British India, a duty of excise at the rate of one anna per maund, and

(*b*) on all oilseeds exported out of British India to a destination outside India, a duty of customs at the rate of two annas per maund:

Provided that the Central Government may from time to time and after consulting the Committee fix by notification in the official Gazette a lesser rate at which the duty of excise or duty of customs shall be levied and collected:

Provided further that no such duty of customs shall be levied on any oilseeds exported under a contract for export entered into before the aforesaid date.

(2) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the duties recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee and the Committee shall credit the said proceeds and any other monies received by it to a fund to be called the Oilseeds Improvement Fund.

Constitution of Indian Oilseeds Committee.

4. As soon as may be after the commencement of this Act, the Central Government shall cause to be constituted a Committee consisting of the following members, to receive for credit to the Fund the proceeds of the duties and to administer the Fund, namely:—

(a) the Vice-Chairman, Imperial Council of Agricultural Research;

(b) the Agricultural Commissioner with the Government of India;

(c) the Agricultural Marketing Adviser with the Government of India;

(d) three persons representing, respectively, the Department of Commerce, the Department of Industries and Supplies and the Department of Food of the Central Government to be appointed by the Central Government;

(e) seven persons representing the Governments of Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar and the Central Provinces and Berar, one each to be nominated by the Provincial Governments concerned;

(f) one person representing the Indian States, to be appointed by the Central Government;

(g) twenty-one persons being growers, seventeen of whom shall be nominated after consulting the approved growers' associations in the Province as follows, four by the Government of Madras, three each by the Governments of Bombay and the United Provinces, two each by the Governments of Bengal, Bihar and the Central Provinces and Berar, and one by the Government of the Punjab, and four of whom shall be appointed by the Central Government to represent growers in the rest of British India and the Indian States, after consulting the approved associations of such growers:

Provided that where there are for the time being no approved growers' associations concerned, the Government shall, before making any nomination or appointment under this clause, consult the associations of growers or associations the majority of whose members are growers, if any, in the Province or other region concerned;

(h) one person having experience of the co-operative movement to be appointed by the Central Government;

(i) one oilseed technologist to be nominated by the Oil Technologists Association, Cawnpore;

(j) three persons representing the village oilseed crushing industry to be appointed by the Central Government after consulting Provincial Governments;

(k) one person representing the vanaspati industry to be appointed by the Central Government after consulting the appropriate commercial associations;

(l) two persons representing the power oilseed crushing industry to be appointed by the Central Government after consulting the appropriate commercial associations;

(m) two persons representing exporters of oilseeds and oilseed products to be appointed by the Central Government after consulting the appropriate trade associations, other than those referred to in clauses (n), (o) and (p);

(n) one person representing the Federation of Indian Chambers of Commerce and Industry to be nominated by that body;

(o) one person representing the Associated Chambers of Commerce to be nominated by that body;

(p) one person representing the Federation of Muslim Chambers of Commerce to be nominated by that body;

(q) one person representing the Federation of Rural Peoples' Organisations to be nominated by that body;

(r) four persons representing the oilseeds trade associations to be appointed by the Central Government after consulting the appropriate commercial associations, other than those referred to in clauses (m), (n), (o) and (p);

(s) six persons representing consumers of oilseed products, of whom two shall be elected by the members of the Council of State and four by the elected members of the Legislative Assembly from among their number;

(t) such additional persons, not more than three in number, as the Central Government may appoint to represent interests not otherwise represented.

Incorporation of the Committee.

5. The Committee shall be a body corporate by the name of the Indian Oilseeds Committee, having perpetual succession and a common seal with power to acquire and hold property, both moveable and immoveable and to contract, and shall by the said name sue and be sued.

Vacancies.

6. (1) If within the period prescribed in this behalf, or within such further period as the Central Government may allow, any authority or body fails to make any nomination or election which it is entitled to make under section 4, the Central Government may itself appoint a member to fill the vacancy in the Committee.

(2) Where a member of the Committee dies, resigns or is removed, or ceases to reside in India, or becomes incapable of acting, the Central Government may, on the recommendation of the authority or body which was entitled to make the first nomination or election under section 4, or where such recommendation is not made within a reasonable time, then on its own initiative, appoint a person to fill the vacancy.

(3) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Committee.

President of Committee, Secretary, sub-committees and staff.

7. (1) The Vice-Chairman, Imperial Council of Agricultural Research, shall be the President of the Committee.

(2) The Central Government shall appoint a person to be the Secretary of the Committee and such person shall be paid by the Committee such salary and such allowances as may be fixed by the Central Government.

(3) The Committee may appoint such sub-committees and staff as may be necessary for the efficient performance of its functions under this Act.

Appointment of officers.

8. The Central Government may, on the recommendation of the Committee, appoint an officer or officers, to discharge under the direction of the Committee such duties as may be prescribed, and such officer or officers shall be paid by the Committee such salary and allowances as may be fixed by the Central Government.

Application of Fund.

9. (1) The Committee shall apply the Fund to meeting the expenses of the Committee and the cost of such measures as it may consider necessary or expedient to take for the improvement and development of the cultivation and marketing of oilseeds and of the production, utilisation and marketing of oilseed products.

(2) Without prejudice to the generality of the foregoing power, the Committee may utilise the Fund to defray expenditure involved in—

(a) undertaking, assisting or encouraging agricultural, industrial, technological and economic research, including research into the food-value of oilseeds and oilseed products;

(b) supplying technical advice to growers and millers;

(c) encouraging the adoption of improved methods of cultivation and storage of oilseeds;

(d) producing, testing and distributing improved varieties of oilseeds or assisting such work;

(e) assisting in the control of insect and other pests and diseases of oilseeds both in the field and in storage;

(f) promoting the improvement of the marketing of oilseeds and their products including the setting up and adoption of grade standards for oilseeds and their products;

(g) collecting statistics from growers, dealers and millers on all relevant matters and promoting improvement in the forecasting of oilseed crops and the preparation of all relevant statistics relating to oilseeds and oilseed products;

(h) maintaining, and assisting in the maintenance of, such institutes, farms and stations as it may consider necessary;

(i) advising and providing assistance on all matters connected with the improvement of the cultivation of oilseeds (including advising on the best and most suitable varieties of oilseeds to be cultivated) and the improvement of the industries using oilseeds or their products;

(j) promoting and encouraging the co-operative movement in the oilseeds industry;

(k) adopting such measures as may be practicable for assuring remunerative returns to growers;

(l) organising the establishment of growers', millers' and consumers' associations;

(m) aiding and encouraging the establishment of exhibitions for demonstrating the uses of oilseeds and oilseed products;

(n) adopting any other measures or performing any other duties which it may be required by the Central Government to adopt or perform or which the Committee may itself think necessary or advisable in order to carry out the purposes of this Act.

Delivery of monthly returns.

10. (1) The owner of every mill shall furnish to the Collector, on or before the 7th day of each month, a return stating the total amount of oils extracted in the mill during the preceding month, together with such further information in regard thereto as may be prescribed:

Provided that no return shall be required in regard to oils extracted before the commencement of this Act.

(2) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of duty of excise.

11. (1) On receiving any return made under section 10, the Collector shall assess the amount of the duty of excise payable under section 8 in respect of the period to which the return relates, and if the amount has not already been paid, shall cause a notice to be served upon the owner of the mill requiring him to make payment of the amount assessed within thirty days of the service of the notice.

(2) If the owner of any mill fails to furnish in due time the return referred to in sub-section (1) of section 10 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount, if any, payable by him in such manner as may be prescribed, and the provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the owner:

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the duty of excise at an amount higher than that at which it is assessable on the basis of the return without giving to the owner a reasonable opportunity of proving the correctness and completeness of the return.

(3) A notice under sub-section (1) may be served on the owner of a mill either by post or by delivering it or tendering it to the owner or his agent at the mill.

Finality of assessment and recovery of unpaid duty of excise.

12. (1) Any owner of a mill who is aggrieved by an assessment made under section 11 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to the District Judge, or in a Presidency-town, to the Chief Judge of the Small Cause Court for the cancellation or modification of the assessment and, on such application, the said Judge may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(2) The decision under sub-section (1) of the District Judge or the Chief Judge of the Small Cause Court, as the case may be, shall be final.

(3) Any sum recoverable under section 11 may be recovered as an arrear of land-revenue.

Power to inspect mills and take copies of records and accounts.

13. (1) The Collector or any officer empowered by general or special order of the Central Government in this behalf shall have free access at all reasonable times during working hours to any mill or to any part of any mill.

(2) The Collector or any such officer may, at any time during working hours, with or without notice to the owner, examine the purchase, sale and stock records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder:

Provided that nothing in this section shall be deemed to authorise the examination of any description or formulae of any trade process.

Information acquired to be confidential.

14. (1) All such copies and extracts and all information acquired by a Collector or any other officer from an inspection of any mill or warehouse or from any return submitted under this Act shall be treated as confidential.

(2) If the Collector or any such officer discloses to any person other than a superior officer any such information as aforesaid without the previous sanction of the Central Government, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure of any such information for the purposes of a prosecution in respect of the making of a false return under this Act.

Keeping and auditing of accounts.

15. (1) The Committee shall publish an annual report and shall keep accounts of all duty and other monies received by it under this Act and of the manner in which the Fund is expended and shall also publish a summary of the accounts along with the annual report.

(2) Such accounts shall be examined and audited annually in the prescribed manner, and the auditors shall have power to disallow any item which has been, in their opinion, expended otherwise than in pursuance of the purposes of this Act.

(3) If any item is disallowed, an appeal shall lie to the Central Government whose decision shall be final.

Dissolution of Committee.

16. The Central Government may, with the previous approval of both Chambers of the Central Legislature, by notification in the official Gazette, declare that, with effect from such date as may be specifid in the notification, the Committee shall be dissolved, and on the making of such declaration all funds and other property vested in the Committee shall vest in His Majesty for the purposes of the Central Government and this Act shall be deemed to have been repealed.

Power of the Central Government to make rules.

17. (1) The Central Government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the time within which nominations or elections shall be made under section 4 whether in the first instance or on the occurrence of vacancies;

(b) for prescribing the term of office of the members of the Committee;

(c) for prescribing the circumstances in which and the authority by which any member may be removed;

(d) for prescribing the quorum of the Committee;

(e) for the holding of a minimum number of meetings of the Committee during any year;

(f) for the maintenance by the Committee of a record of all business transacted and the submission of copies of such records to the Central Government;

(g) for the definition of the powers of the Committee to enter into contracts which shall be binding on the Committee, and the manner in which such contracts shall be executed;

(h) for the regulation of the travelling allowances of members of the Committee and of their remuneration, if any;

(i) for the definition of the powers of the Committee, in respect of the appointment, promotion and dismissal of officers and servants of the Committee, and in respect of the creatiin and abolition of appointments of such officers or servants;

(j) for the regulation of the grant of pay (which shall not, except in the case of a person having specialist's qualifications, exceed two thousand rupees per mensem) and leave to officers and servants of the Committee, and the payment of leave allowances to such officers and servants, and the remuneration to be paid to any person appointed to act for any officer or servant to whom leave is granted;

(k) for the regulation of the payment of pensions, gratuities, compassionate allowances and travelling allowances to officers and servants of the Committee;

(l) for prescribing the establishment and maintenance of a provident fund for the officers and servants of the Committee, and for the deduction of subscriptions to such provident fund from the pay and allowances of such officers and servants, other than Government servants whose services have been lent or transferred to the Committee;

(m) for prescribing the preparation of budget estimates of the annual receipts and expenditure of the Fund and of supplementary estimates of expenditure not included in the budget estimates, and the manner in which such estimates shall be sanctioned and published;

(n) for defining the powers of the Committee, the Standing Finance Sub-Committee, if any, and the President, respectively, in regard to the expenditure from the Fund whether provision has or has not been made in the budget estimates or by re-appropriation for such expenditure, and in regard to the re-appropriation of estimated savings in the budget estimates of expenditure;

(o) for prescribing the maintenance of accounts of the receipts and expenditure of the Fund and providing for the audit of such accounts;

(p) for prescribing the manner in which payments are to be made by or on behalf of the Committee, and the officers by whom orders for making deposits or investments or for withdrawals or disposal of the funds of the Committee shall be signed;

(q) for determining the custody in which the current account of the Fund shall be kept, and the bank or banks at which surplus monies at the credit of the Fund may be deposited at interest, and the conditions on which such monies may be otherwise invested;

(r) for prescribing the preparation of a statement showing the sums allotted to Departments of Agriculture and Industries or institutions not under the direct control of the Committee for expenditure on research, the actual expenditure incurred, the outstanding liabilities, if any, and the disposal of unexpended balances at the end of the year;

(s) for prescribing the duties of the officers appointed under section 8, and the powers and duties of the Secretary of the Committee;

(t) for prescribing the manner in which any amount of duty paid in excess may be refunded;

(u) any other matter which is to be or may be prescribed.

Power of the Committee to make regulations.

18. The Committee may, with the previous sanction of the Central Government, make regulations consistent with this Act and with any rules made under section 17 to provide for all or any of the following matters, namely:—

(a) the appointment of a Standing Finance Sub-Committee or other Sub-Committee and the delegation thereto of any powers exercisable under this Act by the Committee;

(b) the method of appointment, removal and replacement and the term of office of members of the Sub-Committees, and for the filling of vacancies therein;

(c) the dates, times and places for meetings of the Committee and the Sub-Committees and the procedure to be observed at such meetings;

(d) the circumstances in which security may be demanded from officers and servants of the Committee, and the amount and nature of such security in each case;

(e) the times at which, and the circumstances in which, payments may be made out of the provident fund and the conditions on which such payments shall relieve the fund from further liability;

(f) the contribution, if any, payable from the funds of the Committee to the provident fund;

(g) generally all matters incidental to the provident fund and the investment thereof.

Publication of rules and regulations.

19. All rules made under section 17 and all regulations made under section 18 shall be published in the Gazette of India.

THE FACTORIES (AMENDMENT) ACT, 1946.

Act No. X of 1946.

[18th April, 1946.

An Act further to amend the Factories Act, 1934.

Whereas it is expedient further to amend the Factories Act, 1934 (XXV of 1934), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called The Factories (Amendment) Act, 1946.

(2) It shall come into force on the first day of August, 1946.

Amendment of section 34, Act XXV of 1934.

2. In section 34 of the Factories Act, 1934 (hereinafter referred to as the said Act), for the words "fifty-four" and "sixty" the words "forty-eight" and "fifty" shall be respectively substituted.

Amendment of section 36, Act XXV of 1934.

3. In section 36 of the said Act, for the words "ten" and "eleven" the words "nine" and "ten" shall be respec- is a seasonal one, eleven and a half" shall be substituted.

Amendment of section 38, Act XXV of 1934.

4. In section 38 of the said Act for the word "thirteen" the words "ten and a half hours, or where the factory tively substituted.

Amendment of section 44, Act XXV of 1934.

5. For sub-section (4) of section 44 of the said Act, the following sub-section shall be substituted, namely:—

"(4) An order under sub-section (2) shall remain in force for such period, not exceeding two months from the date on which notice thereof is given to the manager of the factory, as may be specified in the order:

Provided that if in the opinion of the Provincial Government the public interest so requires, the Provincial Government may from time to time, by notification in the official Gazette, extend the operation of any such order for such period, not exceeding six months at any one time, as may be specified in the notification."

Amendment of section 45, Act XXV of 1934.

6. In the first proviso to sub-section (1) of section 45 of the said Act, for the words, "thirteen hours" the words "ten and a half hours, or where the factory is a seasonal one, of eleven and a half hours," shall be substituted.

Amendment of section 47, Act XXV of 1934.

7. In section 47 of the said Act, for sub-sections (1) and (2) the following sub-section shall be substituted, namely:—

"(1) Where a worker—

(a) in a non-seasonal factory works for more than nine hours in any day or for more than forty-eight hours in any week, or

(b) in a seasonal factory works for more than nine hours in any day or for more than fifty hours in any week,—

he shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay."

THE PROVIDENT FUNDS (AMENDMENT) ACT, 1946.

ACT No. XI OF 1946.

[18th April, 1946.

An Act further to amend the Provident Funds Act, 1925.

WHEREAS it is expedient further to amend the Provident Funds Act, 1925, (XIX of 1925), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act* may be called THE PROVIDENT FUNDS (AMENDMENT) ACT, 1946.

Amendment of section 5, Act XIX of 1925.

2. (1) In section 5 of the Provident Funds Act, 1925.—

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in any law for the time being in force or in any disposition, whether testamentary or otherwise, by a subscriber to, or depositor in, a Government or Railway Provident Fund of the sum standing to his credit in the Fund, or of any part thereof, where any nomination, duly made in accordance with the rules of the Fund, purports to confer upon any person the right to receive the whole or any part of such sum on the death of the subscriber or depositor occurring before the sum has become payable or before the sum, having become payable, has been paid, the said person shall, on the death as aforesaid of the subscriber or depositor, become entitled, to the exclusion of all other persons, to receive such sum or part thereof, as the case may be, unless—

(a) such nomination is at any time varied by another nomination made in like manner or expressly cancelled by notice given in the manner and to the authority prescribed by those rules, or

(b) such nomination at any time becomes invalid by reason of the happening of some contingency specified therein,—

and if the said person predeceases the subscriber or depositor, the nomination shall, so far as it relates to the right conferred upon the said person, become void and of no effect:

Provided that where provision has been duly made in the nomination in accordance with the rules of the Fund, conferring upon some other person such right in the stead of the person deceased, such right shall, upon the decease as aforesaid of the said person, pass to such other person."

(b) in sub-section (2), for the words "such person shall, on the death of the subscriber or depositor, be entitled t the grant of" the words "person, who becomes entitled as aforesaid, may be granted" shall be substituted.

(2) To the said section 5 the following sub-section shall be added, namely:—

"(3) The provisions of this section as amended by sub-section (1) of section 2 of the Provident Funds (Amendment) Act, 1946, shall apply also to all such nominations made before the date of the commencement of that Act:

Provided that the provisions of this section as so amended shall not operate to affect any case, in which before the said date any sum has been paid, or has under the rules of the Fund become payable in pursuance of any nomination duly made in accordance with those rules."

THE TRADE MARKS (AMENDMENT) ACT, 1946.

ACT No. XII OF 1946.

[18th April, 1946.

An Act further to amend the Trade Marks Act, 1940.

WHEREAS it is expedient further to amend the Trade Marks Act, 1940 (V of 1940), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE TRADE MARKS (AMENDMENT) ACT, 1946.

Amendment of section 4, Act V of 1940.

2. For sub-section (2-A) of section 4 of the Trade Marks Act, 1940 (hereinafter referred to as the said Act), the following sub-sections shall be substituted, namely:—

"(2-A) The Central Government shall appoint two or more Deputy Registrars of Trade Marks to discharge under the superintendence and direction of the Registrar such functions of the Registrar under this Act as he may from time to time authorise them to discharge; and any reference in this Act to the Registrar shall include a reference to any Deputy Registrar when so discharging any such function.

(2-B) The Central Government may by notification in the *Official Gazette* authorise the Registrar to delegate any particular functions of the Registror to officers other than the Deputy Registrars of Trade Marks."

Amendment of section 10, Act V of 1940.

3. In sub-section (1) of section 10 of the said Act, for the words "already on the register" the words, figures and letter "either already on the register or already registered in any Indian State to which section 82-A for the time being applies" shall be substituted.

Amendment of section 19, Act V of 1940.

4. In section 19 of the said Act, after the words "from the register" the words, figures and letter "under this Act, or from the register of trade marks in any Indian State to which section 82-A for the time being applies, shall be inserted.

Amendment of section 21, Act V of 1940.

5. (1) Section 21 of the said Act shall be renumbered as sub-section (1) of that section, and in the section as so renumbered, the words "if valid" shall be omitted.

(2) To the said section as so renumbered the following sub-section shall be added, namely:—

"(2) A person registered in any Indian State to which section 82-A for the time being applies, as proprietor of a trade mark shall have the same rights in respect thereof as are conferred by this section on a person registered under this Act as proprietor of a trade mark."

Amendment of section 22, Act V of 1940.

6. In sub-section (3) of section 22 of the said Act, for the words "two or more registered trade marks" the words, figures and letter "two or more trade marks registered under this Act or in any Indian State to which section 82-A for the time being applies", shall be substituted.

Amendment of section 23, Act V of 1940.

7. In section 23 of the said Act, for the words "registered trade mark" the words, figures and letter "trade mark registered under this Act or in any Indian State to which section 82-A for the time being applies," shall be substituted.

Amendment of section 46, Act V of 1940.

8. To sub-section (2) of section 46 of the said Act, the following *Explanation* shall be added, namely:—

"*Explanation*.—For the purposes of sub-section (1) and this sub-section, a person who has registered a trade mark in any Indian State to which section 82-A for the time being applies, may be a 'person aggrieved'."

Amendment of section 57, Act V of 1940.

9. (1) Section 57 of the said Act shall be renumbered as sub-section (1) of that section, and in the section as so renumbered, the words "if valid" shall be omitted.

(2) To the said section as so renumbered, the following sub-section shall be added, namely:—

"(2) A person registered in any Indian State to which section 82-A for the time being applies, as proprietor of a certification trade mark shall have the same rights in respect thereof as are conferred by this section on a person registered under this Act as proprietor of a certification trade mark."

Amendment of section 58, Act V of 1940.

10. In sub-section (3) of section 58 of the said Act, for the words "registered certification trade marks" the words, figures and letter "certification trade marks registered under this Act or in any Indian State to which section 82-A for the time being applies," shall be substituted.

Amendment of section 68, Act V of 1940.

11. (1) In sub-section (1) of section 68 of the said Act, for the words "From such date, not being earlier than one year from the commencement of this Act, as the Central Government may, by notification in the official Gazette, appoint in this behalf," the words and figures "On and after the 1st day of January, 1947," shall be substituted.

(2) To the said section the following sub-section shall be added, namely:—

'(4) Nothing in this section shall—

(*a*) apply to a trade mark, application for the registration of which has been made before the 1st day of January, 1947, until such application has been disposed of;

(*b*) affect the use of the word "registered" in respect of a trade mark registered in any Indian State to which section 82-A for the time being applies, or until the application has been disposed of, in respect of a trade mark, application for the registration of which has been made in any such Indian State before the aforesaid date.'

Insertion of new section 82-A in Act V of 1940.

12. After section 82 of the said Act, the following section shall be inserted, namely:—

Power to make reciprocal arrangements with Indian States.

"82-A. (1) The Central Government may enter into reciprocal arrangements with any Indian State whereby trade marks and certification trade marks registered under this Act shall have in that State protection as if registered in that State and where such arrangements have been entered into with any Indian State, the Central Government shall by notification in the Official Gazette declare that this section shall apply to that State.

(2) Where any such arrangements as aforesaid with any Indian State are terminated, the Central Government shall by a further like notification cancel the notification under sub-section (1) relating to that State."

Amendment of section 83, Act V of 1940.

13. In section 83 of the said Act, the word "British", where it occurs for the first time, shall be omitted.

Amendment of section 84, Act V of 1940.

14. In sub-section (2) of section 84 of the said Act, after clause (l) the following clause shall be inserted, namely:—

"(ll) make such supplementary provision as may be necessary or expedient to give effect to reciprocal arrangements entered into with Indian States under section 82-A;".

THE INDIAN COMPANIES (AMENDMENT) ACT, 1946.

ACT No. XIII OF 1946.

An Act further to amend the Indian Companies Act, 1913.

[18*th April*, 1946.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, (VII of 1913), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE INDIAN COMPANIES (AMENDMENT) ACT, 1946.

Amendment of section 282-B, Act VII of 1913.

2. To sub-section (2) of section 282-B of the Indian Companies Act, 1913, the following proviso shall be added, namely:—

"Provided that where one-tenth part of the whole amount of the moneys belonging to such fund exceeds the maximum amount which may be deposited in a Post Office Savings Bank account under the rules regulating such deposits for the time being in force, the amount of such excess may be kept or deposited in a special account to be opened for the purpose in a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (II of 1934)."

THE RAILWAY COMPANIES (SUBSTITUTION OF PARTIES IN CIVIL PROCEEDINGS) ACT, 1946.

[18*th April*, 1946.

ACT No. XIV OF 1946.

An Act to provide for the substitution of the Governor-General in Council for certain Railway Companies in certain civil proceedings.

WHEREAS under certain arrangements made by the Central Government with the Bengal-Nagpur Railway Company, Limited, the Bombay, Baroda and Central India Railway Company, the Bengal and North Western Railway Company, Limited, and the Rohilkund and Kumaon Railway Company, Limited, certain rights and liabilities of the said Companies have been assumed by the Central Government;

AND WHEREAS it is expedient to provide for the substitution of the Governor-General in Council in the place and stead of the said Companies in all pending civil proceedings founded on any right or liability so assumed by the Central Government;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE RAILWAY COMPANIES (SUBSTITUTION OF PARTIES IN CIVIL PROCEEDING) ACT, 1946.

Intrpretation.

2. In this Act, "civil proceeding" includes an appeal or execution proceeding.

Substitution of Governor-General in Council in certain civil proceedings.

3. (1) In every civil proceeding pending at the commencement of this Act to which the Bengal-Nagpur Railway Company, Limited, or the Bombay, Baroda and Central India Railway Company, or the Bengal and North Western Railway Company, Limited, or the Rohilkund and Kumaon Railway Company, Limited, is a party, and which is founded on any right or liability assumed by the Central Government under certain arrangements made by the Central Government with the

said Companies, the Governor-General in Council shall, notwithstanding anything to the contrary in the Code of Civil Procedure, 1908 (V of 1908), be deemed to be substituted in the place and stead of the Company; and every such proceeding may be continued by or against the Governor-General in Council accordingly, and the Company shall be discharged from all liability in connection with the proceeding.

(2) References in sub-section (1) to any Company shall be construed as including references to the liquidators of that Company.

THE INDIAN COCONUT COMMITTEE (AMENDMENT) ACT, 1946.

ACT No. XV OF 1946.

An Act further to amend the Indian Coconut Committee Act, 1944.

WHEREAS it is expedient further to amend the Indian Coconut Committee Act, 1944 (X of 1944), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE INDIAN COCONUT COMMITTEE (AMENDMENT) ACT, 1946.

Amendment of section 2, Act X of 1944.

2. In section 2 of the Indian Coconut Committee Act, 1944, (hereinafter referred to as the said Act,)—

(a) for clause (a) the following clauses shall be substituted, namely:—

'(a) "Collector" means the officer appointed by the Central Government to perform in any specified area the duties of a Collector under the provisions of this Act and the rules made thereunder, and includes any officer subordinate to that officer whom he may by order in writing authorise to perform his duties under those provisions;';

(b) after clause (b) the following clause shall be inserted, namely:—

'(bb) "Fund" means the Coconut Improvement Fund referred to in sub-section (2) of section 3;'.

Amendment of section 3, Act X of 1944.

3. Section 3 of the said Act shall be renumbered as sub-section (1) of that section, and to the section as so renumbered the following sub-section shall be added, namely:—

"(2) On the last day of each month, or as soon thereafter as may be convenient, the proceeds of the duty recovered during that month shall, after deduction of the expenses, if any, of collection and recovery, be paid to the Committee, and the Committee shall credit the said proceeds and any other monies received by it to a fund called the Coconut Improvement Fund.".

Amendment of section 4, Act X of 1944.

4. In section 4 of the said Act, for the words "and expend the proceeds of the duty collected under this Act," the words "for credit to the Fund the proceeds of the duty and any other monies received by it and to administer the Fund," shall be substituted.

Substitution of new section for section 9, Act X of 1944.

5. For section 9 of the said Act the following section shall be substituted, namely:—

Application of fund.

"9. (1) The Committee shall apply the Fund to meeting the expenses of the Committee and the cost of such measures as it may consider necessary or expedient to take for the improvement and development of the cultivation and marketing of coconuts and of the production, utilisation and marketing of copra, coconut oil and coconut poonac.

(2) Without prejudice to the generality of the foregoing power, the Committee may utilise the Fund to defray expenditure involved in—

(a) undertakings, assisting or encouraging agricultural, industrial, technological and economic research;

(b) the supply of technical advice to growers;

(c) encouraging the adoption of improved methods in cultivation;

(d) carrying on such propaganda in the interests of the coconut industry as may be industry;

(e) collecting statistics from growers, dealers, millers and other sources on all relevant matters bearing on the industry;

(f) fixing grade standards of copra and its products;

(g) recommending the maximum and minimum prices to be fixed for copra;

(h) advising on all matters which require attention for the development of the industry;

(i) improving the marketing of coconuts in India and abroad and suggesting suitable measures to prevent unfair competition;

(j) assisting in the control of insects and other pests and diseases of coconut trees;

(k) promoting and encouraging co-operative efforts among the coconut growers and in the coconut industries;

(l) adopting such measures as may be practicable for assuring remunerative returns to growers;

(m) maintaining and assisting in the maintenance of such institutes, farms and stations as it may consider necessary;

(n) adopting any other measures or performing any other duties which it may be required by the Central Government to adopt or perform or which the Committee itself may think necessary or advisable in order to carry out the purposes of this Act."

Amendment of section 12, Act X of 1944.

6. For sub-sections (1) and (2) of section 12 of the said Act, the following sub-sections shall be substituted, namely:—

"(1) Any owner of a mill who is aggrieved by an assessment made under section 11 may, within three months of service of the notice referred to in sub-section (1) of that section, apply to the District Judge, or in a presidency-town, to the Chief Judge of the Small Cause Court for the cancellation or modification of the assessment and, on such application, the said Judge may cancel or modify the assessment and order the refund to such owner of the whole or part, as the case may be, of any amount paid thereunder.

(2) The decision under sub-section (1) of the District Judge or the Chief Judge of the Small Cause Court, as the case may be, shall be final."

Amendment of section 13, Act X of 1944.

7. In section 13 of the said Act,—

(a) in sub-section (2),—

(i) after the words "at any time" the words "during working hours" shall be inserted;

(ii) for the words "working records, sale" the words "purchase, sale and stock" shall be substituted;

(iii) the following proviso shall be added, namely:—

"Provided that nothing in this section shall be deemed to authorise the examination of any description or formulæ of any trade process.";

(b) sub-section (3) shall be omitted.

Amendment of section 15, Act X of 1944.

8. Section 15 of the said Act shall be omitted.

Amendment of section 17, Act X of 1944.

9. In section 17 of the said Act, after the words "Central Government may" the words "with the previous approval of both Chambers of the Central Legislature," shall be inserted.

Omission of section 25 Act X of 1944.

10. In sub-section (2) of section 18 of the said Act,—

(a) in clauses (m), (o) and (q), for the word "Committee" wherever it occurs, the word "Fund" shall be substituted;

(b) in clause (n), for the words "of the funds of the Committee" the words "from the Fund" shall be substituted;

(c) after clause (r) the following clause shall be inserted, namely:—

"(rr) for prescribing the manner in which any amount of duty paid in excess may be refunded;".

THE PROTECTIVE DUTIES CONTINUATION ACT, 1946.

ACT No. XVI OF 1946.

[18th April, 1946.

An Act to extend the date up to which duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect, and further to amend the Sugar Industry (Protection) Act, 1932.

WHEREAS it is expedient to extend the date up to which duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), shall have effect, and further to amend the Sugar Industry (Protection) Act, 1932, (XIII of 1932), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE PROTECTIVE DUTIES CONTINUATION ACT, 1946.

Amendment of First Schedule, Act XXXII of 1934.

2. In the First Schedule to the Indian Tariff Act, 1934, in the column headed "Duration of protective rates of duty" for the figures "1946" wherever they occur, the figures "1947" shall be substituted.

Amendment of preamble and section 3, Act XIII of 1932.

3. In the preamble and section 3 of the Sugar Industry (Protection) Act, 1932, for the figures "1946" wherever they occur, the figures "1947" shall be substituted.

THE PROTECTIVE DUTIES ACT, 1946.

ACT No. XVII OF 1946.

[18th April, 1946.

An Act to enable the immediate imposition of protective duties of customs on imported goods.

WHEREAS it is expedient to enable the Central Government to impose with immediate effect protective duties of customs on goods produced or manufactured outside India and imported into British India where such imposition is urgently necessary in the interests of industries established in British India;

It is hereby enacted as follows:—

Short title, extent and duration.

1. (1) This Act may be called THE PROTECTIVE DUTIES ACT, 1946.

(2) It extends to the whole of British India.

(3) It shall remain in force until the 31st day of March, 1949.

Power of Central Government to impose duties of customs.

2. (1) If the Central Government, upon a recommendation made to it in this behalf by the Tariff Board set up under the Resolution of the Government of India in the Department of Commerce, No. 218-T(55)|45, dated the 3rd November, 1945, is of opinion that it is urgently necessary to provide for the protection of the interests of any industry established in British India, the Central Government may, by notification in the official Gazette, impose on any goods, produced or manufactured in any country outside India and imported into British India, in respect of which the said recommendation is made, a duty of customs of such amount, not exceeding the amount, if any, proposed in the said recommendation, as it thinks fit.

(2) Every duty imposed under sub-section (1) shall be deemed to be a duty leviable under the Indian Tariff Act, 1934, (XXXII of 1934), and shall be in addition to any duties imposed under that Act or any other law for the time being in force, but shall not be included in the duty of customs upon which any additional duty imposed by section 6 of the Indian Finance Act, 1942, (XII of 1942) and continued, subject to certain modifications, by certain subsequent Acts of the Central Legislature, is calculated, or operate so as in any way to affect the amount of any additional duty so imposed.

Duties to be continued by legislation.

3. During the session of the Central Legislature next following the date of the issue of a notification under sub-section (1) of section 2, there shall, unless the notification is in the meantime rescinded, be introduced in the Central Legislature on bhalf of the Central Government a Bill to give effect to the proposals of the Central Government in regard to the continuance of a protective duty of customs on the goods to which the notification relates, and the notification shall cease to have effect on the expiry of two months from the date on which the Bill is so introduced:

Provided that where for any reason a Bill as aforesaid is not so introduced the notification shall cease to have effect on the expiry of two months from the termination of the said session.

Power to make rules.

4. (1) The Central Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe the conditions subject to which any goods shall be deemed to be produced or manufactured in a particular country for the purposes of this Act.

THE INDIAN SOLDIERS (LITIGATION) AMENDMENT ACT, 1946.

ACT No. XVIII OF 1946.

[18th April, 1946.

An Act further to amend the Indian Soldiers (Litigation) Act, 1925.

WHEREAS it is expedient further to amend the Indian Soldiers (Litigation) Act, 1925 (IV of 1925), for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE INDIAN SOLDIERS (LITIGATION) AMENDMENT ACT, 1946.

Amendment of section 11, Act IV of 1925.

2. In the proviso to section 11 of the Indian Soldiers (Litigation) Act, 1925, for the words "except in such areas, and subject to such modifications, if any," the words "except where the said right accrues in such circumstances, and is in respect of agricultural land and village immovable property situated in any such area," shall be substituted.

THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE ACT, 1946.

ACT No. XIX OF 1946.

[23rd April, 1946.

An Act to give Hindu married women a right to separate residence and maintenance under certain circumstances.

WHEREAS it is expedient to provide for the right to separate residence and maintenance under certain circumstances in the case of Hindu married women;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND MAINTENANCE ACT, 1946.

(2) It applies to the whole of British India.

Grounds for claiming separate residence and maintenance.

2. Notwithstanding any custom or law to the contrary a Hindu married woman shall be entitled to separate residence and maintenance from her husband on one or more of the following grounds, namely.—

(1) if he is suffering from any loathsome disease not contracted from her;

(2) if he is guilty of such cruelty towards her as renders it unsafe or undesirable for her to live with him;

(3) if he is guilty of desertion, that is to say, of abandoning her without her consent or against her wish;

(4) if he marries again;

(5) if he ceases to be a Hindu by conversion to another religion;

(6) if he keeps a concubine in the house or habitually resides with a concubine;

(7) for any other justifiable cause:

Provided that a Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by change to another religion or fails without sufficient cause to comply with a decree of a competent Court for the restitution of conjugal rights.

Amount of maintenance.

3. When allowing a claim for separate residence and maintenance under section 2, the Court shall determine the amount to be paid by the husband to the wife therefor, and in so doing shall have regard to the social standing of the parties and the extent of the husband's means.

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946.

ACT No. XX OF 1946.

[23rd April, 1946.

An Act to require employers in industrial establishments formally to define conditions of employment under them.

WHEREAS it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them;

It is hereby enacted as follows:—

Short title, extent and application.

1. (1) This Act may be called THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946.

(2) It extends to the whole of British India.

(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months, and to such class or classes of other industrial establishments as the appropriate Government may from time to time, by notification in the official Gazette, specify in this behalf.

Provided that nothing in this Act shall apply to any industry to which, before the commencement of this Act, the provisions of Chapter V of the Bombay Industrial Disputes Act, 1938 (Bombay Act XXV of 1938), have been applied.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context,

(a) "appellate authority" means an Industrial Court, wherever it exists or in its absence an authority appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act;

(b) "appropriate Government" means in respect of industrial establishments under the control of the Central Government or a Federal railway or in a major port, mine or oilfield, the Central Government, and in all other cases, the Provincial Government;

(c) "Certifying Officer" means the Labour Commissioner wherever he exists, or in his absence an officer appointed by the appropriate Government by notification in the official Gazette to exercise in such area as may be specified in the notification the functions of a Certifying Officer under this Act;

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

(i) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934, (XXV of 1934), as manager of the factory;

(ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;

(iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means—

(i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936, (IV of 1936), or

(ii) a factory as defined in clause (j) of section 2 of the Factories Act, 1934, or

(iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (IX of 1890), or

(iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

(f) "prescribed" means prescribed by rules made by the appropriate Government under this Act;

(g) "standing orders" means rules relating to matters set out in the Schedule;

(h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (XVI of 1926);

(i) "workman" means any person employed in any industrial establishment to do any skilled or unskilled, manual or clerical, labour for hire or reward, but does not include any member of the armed forces of the Crown.

Submission of draft standing orders.

3. (1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

Conditions for certification of standing orders.

4. Standing orders shall be certifiable under this Act if—

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

(b) the standing orders are otherwise in conformity with the provisions of this Act; and it shall not be the function of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

Certification of standing orders.

5. (1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

Appeals.

6. (1) Any person aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within twenty-one days from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under sub-section (1), send copies thereof of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

Date of operation of standing orders.

7. Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under sub-section (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

Register of standing orders.

8. A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

Posting of standing orders.

9. The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at, or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

Duration and modification of standing orders.

10. (1) Standing orders finally certified under this Act shall not, except on agreement between the employer and the workmen, be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

(2) An employer desiring to modify his standing orders shall apply to the Certifying Officer in that behalf, submitting five copies of the standing orders in which shall be indicated the modifications he proposes, and where such modifications are made in agreement with the workmen, a certified copy of the agreement shall accompany the application.

(3) the foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

Certifying officers and appelate authorities to have powers of Civil Court.

11. Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (V of 1898).

Oral evidence of standing orders not admissible.

12. No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders finally certified under this Act shall be admitted in any Court.

Penalties and procedure.

13. (1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act for his industrial establishment shall be punishable with fine which may extend to one hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of a Presidency Magistrate or Magistrate of the second class shall try any offence under this section.

Power to exempt.

14. The appropriate Government may by notification in the official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

Power to make rules.

15. (1) The appropriate Government may, after previous publication, by notification in the official Gazette make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in acordance with any such addition;

(b) set out model standing orders for the purposes of this Act;

(c) prescribe the procedure of Certifying Officers and appellate authorities;

(d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;

(e) provide for any other matter which is to be or may be prescribed.

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

THE SCHEDULE.

[*See* sections 2 (g) and 3 (2).]

Matters to be provided in Standing Orders under this Act.

1. Classification of workmen, *e.g*, whether permanent, temporary, apprentices, probationers, or *badlis*.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and reopening of sections of the industrial establishment and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.
9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

THE MERCHANT SEAMEN (LITIGATION) ACT, 1946.

ACT No. XXI OF 1946.

[23rd April, 1946.

An Act to provide for the special protection in respect of civil and revenue litigation of serving merchant seamen.

WHEREAS it is expedient to provide for special protection in respect of civil and revenue litigation of serving merchant seamen;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called THE MERCHANT SEAMEN (LITIGATION) ACT, 1946.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Interpretation.

2. (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "agreement" means articles of agreement entered into by a seaman whereby he engages himself to serve on board a sea-going ship;

(b) "Court" means a Civil or Revenue Court;

(c) "master" means a person, other than a pilot or harbour master, having command or charge of a sea-going ship;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "proceeding" includes any suit, appeal or application;

(*f*) "seaman" means every person, other than a person subject to naval law, who is employed or engaged under an agreement on board any sea-going ship in any capacity, other than that of pilot or apprentice but including that of master;

(*g*) "shipping master" means, in relation to any seaman, a shipping master appointed—

(i) for the port at which the seaman entered into, or is believed to have entered into, an agreement, or

(ii) where the seaman did not enter into his agreement in British India, for the port to which the seaman has returned, or is expected to return, on the completion of his latest voyage,

and includes a deputy shipping master or any person carrying out the functions of a shipping master.

(2) For the purposes of this Act a seaman shall be deemed to be a serving seaman during any period commencing on the date on which he enters into an agreement and ending thirty days after the date on which he is finally discharged from such agreement.

Particulars to be furnished in plaints, etc.

3. If any person presenting any plaint, application or appeal to any Court has reason to believe that any adverse party is a serving seamen, he shall make a statement accordingly in the plaint, application or appeal.

Power of Collector to intervene in case of unrepresented seaman.

4. If any Collector has reason to believe that any seaman who ordinarily resides or has property in his district and who is a party to any proceeding pending before any Court, is unable to appear therein or is a serving seaman, the Collector may certify the facts in the prescribed manner to the Court.

Notice to be given in case of unrepresented seaman.

5. (1) If a Collector has certified under section 4, or if a Court has reason to believe, that a seaman who is a party to any proceeding before the Court, is unable to appear therein or is a serving seaman, the Court shall suspend the proceeding and shall give notice thereof in the prescribed manner to the shipping master:

Provided that the Court may refrain from suspending the proceeding and giving the notice—

(*a*) if the proceeding is one instituted or made by the seaman, alone or conjointly with others, with the object of enforcing a right of pre-emption, or

(*b*) if the interests of the seaman in the proceeding are, in the opinion of the Court, either identical with those of any other party thereto and adequately represented by such other party, or merely of a formal nature.

(2) If it appears to the Court before which any proceeding is pending that a seaman though not a party to the proceeding is materially concerned in the outcome of the proceeding and that his interests are likely to be prejudiced by his inability to attend, the Court may suspend the proceeding and shall give notice thereof in the prescribed manner to the shipping master.

Postponement of proceedings.

6. (1) If on receipt of a notice under section 5, the shipping master certifies to the Court in the prescribed manner that the seaman is a serving seaman, the Court shall thereupon postpone the proceeding in respect of the seaman for the prescribed period, or if no period has been prescribed, for such period as it thinks fit:

Provided that if by reason of the continued absence of the seaman the question of any further postponement of the proceeeding in respect of the seaman arises, the Court shall in deciding the question have regard to the purposes of this Act.

(2) If the shipping master either certifies that the seaman is not for the time being a serving seaman or fails within two months from the date of the receipt of the notice under section 5 to certify that the seaman is a serving seaman, the Court may, if it thinks fit, continue the proceeding.

Power to set aside decrees and orders passed against serving seaman.

7. (1) Where in any proceeding before a Court a decree or order has been passed against any seaman while he was a serving seaman, the seaman, or if he dies while he is serving seaman, his legal representative, may apply to the said Court to have the decree or order set aside, and if the Court, after giving an opportunity to the opposite party of being heard, is satisfied that the interests of justice require that the decree or order should be set aside as against the seaman, the Court shall, subject to such conditions, if any, as it thinks fit to impose, make an order accordingly, and may, if it appears that any opposite party in the proceeding has failed to comply with the provisions of section 3, award, subject to such conditions as may be prescribed, damages against such opposite party.

(2) The period of limitation for an application under sub-section (1) shall be sixty days from the date on which the seaman first ceases to be a serving seaman after the passing of the decree or order, or where the summons or notice was not duly served on the seaman in the proceeding in which the decree or order was passed, from the date on which the applicant had knowledge of the decree or order, whichever is later; and the provisions of section 5 of the Indian Limitation Act, 1908 (IX of 1908), shall apply to such applications.

(3) Where the decree or order in respect of which an application under sub-section (1) is made is of such a nature that it cannot be set aside as against the seaman only, it may be set aside as against all or any of the parties against whom it was made.

(4) Where a Court sets aside a decree or order under this section, it shall appoint a day for proceeding with the suit, appeal or application, as the case may be, in respect of which the decree or order was passed.

Modification of law of limitation where seaman is a party.

8. In computing the period of limitation provided in this Act or in the Indian Limitation Act, 1908 (IX of 1908), or in any other law for the time being in force, for any suit, appeal or application to a Court to which a seaman is a party, the period or periods during which the seaman has been a serving seaman, and if the seaman has died while he was a serving seaman, the period from the date of his death to the date on which his next of kin was first informed, by the shipping master or otherwise, of his death, shall be excluded:

Provided that this section shall not apply in the case of any suit, appeal or application instituted or made with the object of enforcing a right of pre-emption except in such areas and in such circumstances as the Central Government may, by notification in the official Gazette, specify in this behalf.

Reference in matters of doubt to shipping masters.

9. If any Court is in doubt whether, for the purposes of section 7 or section 8, a seaman is or was at any particular time or during any particular period a serving seaman, it may refer the question to the shipping master, and the certificate of the shipping master shall be conclusive evidence on the question.

Power to make rules.

10. The Central Government, after consulting the High Courts concerned, may by notification in the Official Gazette make rules to provide for all or any of the following matters, namely:—

(a) the manner and form in which any notice or certificate under this Act shall be given;

(b) the period for which proceedings or any class of proceedings shall be postponed under sub-section (1) of section 6;

(c) the conditions subject to which damages may be awarded under sub-section (1) of section 7, and the amount of such damages;

(d) any other matter which is to be or may be prescribed, and generally, any matters incidental to the purposes of this Act.

THE MICA MINES LABOUR WELFARE FUND ACT, 1946.

ACT No. XXII OF 1946.

[23rd April, 1946.

An Act to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry.

WHEREAS it is expedient to constitute a fund for the financing of activities to promote the welfare of labour employed in the mica mining industry;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE MICA MINES LABOUR WELFARE FUND ACT, 1946.

(2) It extends to the whole of British India.

Imposition and collection of a cess.

2. (1) With effect from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf, there shall be levied and collected, as a cess for the purposes of this Act, on all mica, in whatever state, exported from British India a duty of customs at such rate, not exceeding six and one-quarter *per centum ad valorem*, as may from time to time be fixed by the Central Government by notification in the official Gazette:

Provided that until the 1st day of April, 1947, the rate of duty so fixed shall not exceed two and one-half *per centum ad valorem*.

(2) On the last day of each month or as soon thereafter as may be convenient there shall be paid to the credit of a fund to be called the Mica Mines Labour Welfare Fund (hereinafter referred to as the Fund) the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

The Mica Mines Labour Welfare Fund.

3. (1) The Fund shall be applied by the Central Government to meet expenditure incurred in connection with measures in the opinion of the Central Government necessary or expedient to promote the welfare of labour employed in the mica mining industry.

(2) Without prejudice to the generality of sub-section (1), the Fund may be utilised to defray—

(a) the cost of measures for the benefit of labour employed in the mica mining industry directed towards—

(i) the improvement of public health and sanitation, the prevention of disease, and the provision and improvement of medical facilities,

(ii) the provision and improvement of water supplies and facilities for washing,

(iii) the provision and improvement of educational facilities,

(iv) the improvement of standards of living, including housing and nutrition, the amelioration of social conditions and the provision of recreational facilities,

(v) the provision of transport to and from work;

(b) the grant to a Provincial Government, a local authority or the owner, agent or manager of a mica mine, of money in aid of any scheme approved by the Central Government for any purpose for which the Fund may be utilised;

(c) the cost of administering the Fund, including the allowances, if any, of members of the Advisory Committees constituted under section 4, and the salaries and the allowances, if any, of officers appointed under section 5;

(d) any other expenditure which the Central Government may direct to be defrayed from the Fund.

(3) The Central Government shall have power to decide whether any particular expenditure is or is not debitable to the Fund, and its decision shall be final.

(4) The Central Government shall publish annually in the official Gazette report of the activities financed from the Fund, together with an estimate of receipts and expenditure of the Fund and a statement of accounts.

Advisory Committees.

4. (1) The Central Government shall constitute two Advisory Committees, one for the Province of Madras and one for the Province of Bihar, to advise the Central Government on any matters arising out of the administration of this Act or the Fund.

(2) The members of the Advisory Committee shall be appointed by the Central Government, and shall be of such number and chosen in such manner as may be prescribed by rules made under this Act:

Provided that each Committee shall include an equal number of members representing mica mine owners and workmen employed in the mica mining industry, and that at least one member of each Committee shall be a woman, and at least one member of each Committee shall be a member of the Legislature of the Province concerned.

(3) The Chairman of each Advisory Committee shall be appointed by the Central Government.

(4) The Central Government shall publish in the official Gazette the names of all members of the Advisory Committees.

Appointment and powers of officers.

5. (1) The Central Government may appoint Inspectors, Welfare Administrators and such other officers as it thinks necessary to administer the Fund or to supervise or carry out the activities financed from the Fund.

(2) Every officer so apointed shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

(3) Any Inspector or Welfare Administrator may—

(a) with such assistance, if any, as he thinks fit, enter at any reasonable time any place which he considers it necessary to enter for the purpose of supervising or carrying out the activities financed from the Fund, and

(b) do within such place anything necessary for the proper discharge of his duties.

Power to make rules.

6. (1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the making of refunds, remissions and recoveries of the duty of customs imposed by sub-section (1) of section 2;

(b) the composition of the Advisory Committees constituted under section 4, the manner in which the members thereof shall be chosen, the term of office of such members, the allowances, if any, payable to them, and the manner in which the Advisory Committees shall conduct their business;

(c) the conditions governing the grant of money from the Fund under clause (b) of sub-section (2) of section 3;

(d) the form of the estimate and statement referred to in sub-section (4) of section 8;

(e) the conditions of service and the duties of all officers appointed under section 5;

(f) the furnishing by owners or agents or managers of mica mines of statistical or other information, and the punishment by fine of failure to comply with the requirements of any rule made under this clause.

THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1946.

ACT NO. XXIII OF 1946.

[19th November, 1946.

An Act further to amend the Reserve Bank of India Act, 1934.

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title. 1. This Act may be called THE RESERVE BANK OF INDIA (AMENDMENT) ACT, 1946.

Amendment of section 31, Act II of 1934. 2. Section 31 of the Reserve Bank of India Act, 1934, shall be renumbered as sub-section (1) of that section and to the section as so renumbered the following sub-section shall be added, namely:—

"(2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in British India other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument."

Repeal of Ordinance XVII of 1946. 3. The Bearer Promissory Notes (Prohibition of Issue) Ordinance, 1946, is hereby repealed.

THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) ACT, 1946.

ACT NO. XXIV OF 1946.

[19th November, 1946.

An Act to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, certain commodities.

WHEREAS it is necessary to provide for the continuance during a limited period of powers to control the production, supply and distribution of, and trade and commerce in, foodstuffs (including edible oilseeds and oils), cotton and woollen textiles, paper (including newsprint), petroleum and petroleum products, spare parts of mechanically propelled vehicles, coal, iron, steel and mica;

AND WHEREAS the Indian Legislature has been empowered by section 2 of the Indian (Central Government and Legislature) Act, 1946, to make laws with respect to the matters aforesaid;

It is hereby enacted as follows:—

Short title, extent and duration. 1. (1) This Act may be called THE ESSENTIAL SUPPLIES (TEMPORARY POWERS) ACT, 1946.

(2) It extends to the whole of British India.

(3) It shall cease to have effect on the expiration of the period mentioned in section 4 of the India (Central Government and Legislature) Act, 1946, except as respects things done or omitted to be done before the expiration thereof, and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had then been repealed by a Central Act.

Definitions. 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "essential commodity" means any of the following classes of commodities:—

(i) foodstuffs,

(ii) cotton and wollen textiles,

(iii) paper,

(iv) petroleum and petroleum products,

(v) spare parts of mechanically propelled vehicles,

(vi) coal,

(vii) iron and steel,

(viii) mica;

(b) "food-crops" shall include crops of sugarcane;

(c) "foodstuffs" shall include edible oilseeds and oils;

(d) "notified order" means an order notified in the official Gazette;

(e) "paper" shall include newsprint;

(f) "Provincial Government", in relation to a Chief Commissioner's Province, means the Chief Commissioner.

Powers to control production, supply, distribution, etc., of essential commodities.

3. (1) The Central Government, so far as it appears to it to be necessary or expedient for maintaining or increasing supplies of any essential commodity, or for securing their equitable distribution and availability at fair prices, may by notified order provide for regulating or prohibiting the production, supply and distribution thereof, and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;

(b) for bringing under cultivation any waste or arable land whether appurtenant to a building or not, for the growing thereon of food-crops generally or of specified food-crops, and for otherwise maintaining or increasing the cultivation of food-crops generally, or of specified food-crops;

(c) for controlling the prices at which any essential commodity may be bought or sold;

(d) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

(e) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(f) for requiring any person holding stock of an essential commodity to sell the whole or a specified part of the stock at such prices and to such persons or class of persons or in such circumstances, as may be specified in the order;

(g) for regulating or prohibiting any class of commercial or financial transactions relating to foodstuffs or cotton textiles, which, in the opinion of the authority making the order are, or if unregulated are likely to be, detrimental, to public interest;

(h) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(i) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(j) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) An order made under sub-section (1) may confer powers and impose duties upon the Central Government or officers and authorities of the Central Government, notwithstanding that it relates to a matter in respect of which the Provincial Legislature also has power to make laws.

(4) The Central Government, so far as it appears to it to be necessary for maintaining or increasing the production and supply of an essential commodity, may by order authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order, such functions of control as may be provided by the order; and so long as an order made under this sub-section is in force with respect to any undertaking or part thereof—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have any power to give any direction inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order, and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

Delegation of powers.

4. The Central Government may by notified order direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such Provincial Government or such officer or authority subordinate to a Provincial Government, as may be specified in the direction.

Power to issue directions to Provinces.

5. The Central Government may give directions to any Provincial Government as to the carrying into execution in the Province of any order made under section 3.

Effect of orders inconsistent with other enactments.

6. Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Penalties.

7. (1) If any person contravenes any order made under section 3, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty:

Provided that where the contravention is of an order relating to foodstuffs which contains an express provision in this behalf, the Court shall make such direction, unless for reasons to be recorded in writing it is of opinion that the direction should not be made in respect of the whole, or, as the case may be, a part, of the property.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Attempts and abetments.

8. Any person who attempts to contravene, or abets a contravention of, any order made under section 3 shall be deemed to have contravened that order.

Offences by corporations.

9. If the person contravening an order made under section 3 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

False statements.

10. If any person—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,
he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Cognizance of offences.

11. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code.

Power to try offences summarily.

12. Any magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act.

Special provision regarding fines.

13. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under section 3.

Presumption as to orders.

14. (1) No order made in exercise of any power conferred by or under this Act shall be called in question in any Court.

(2) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

Burden of proof in certain cases.

15. Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document, shall be on him.

Protection of action taken under the Act.

16. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

Repeal and saving.

17. (1) The Essential Supplies (Temporary Powers) Ordinance, 1946, is hereby repealed.

(2) Any order made or deemed to be made under the said Ordinance and in force immediately before the commencement of this Act shall continue in force and be deemed to be an order made under this Act; and all appointments made, licences or permits granted and directions issued under any such order and in force immediately before such commencement shall likewise continue in force and be deemed to be made, granted or issued in pursuance of this Act.

(3) For the removal of doubts it is hereby declared—

(a) that for the purposes of the said Ordinance and this Act an order of the nature referred to in section 5 of the said Ordinance made before the commencement of the said Ordinance and not previously rescinded shall be deemed to be, and always to have been, an order in force immediately before such commencement, notwithstanding that such order or parts of it, may not then have been in operation, either at all or in particular areas;

(b) that for the purposes of this Act an order made or deemed to be made under the said Ordinance and not rescinded prior to the commencement of this Act shall be deemed to be an order in force immediately before the commencement of this Act, notwithstanding that such order, or parts of it, may not then be in operation, either at all or in particular areas.

THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946.

ACT No. XXV OF 1946.

[19th November, 1946.

An Act to make provision for the constitution of a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government, for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of members of the said force in regard to the investigation of the said offences.

WHEREAS it is necessary to constitute a special police force for the Chief Commissioner's Province of Delhi for the investigation of certain offences committed in connection with matters concerning Departments of the Central Government and to make provision for the superintendence and administration of the said force and for the extension to other areas in British India of the powers and jurisdiction of the members of the said force in regard to the investigation of the said offences;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE DELHI SPECIAL POLICE ESTABLISHMENT ACT, 1946.

(2) It extends to the whole of British India.

Constitution and powers of special police establishment.

2. (1) Notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special Police force to be called the Delhi Special Police Establishment for the Chief Commissioner's Province of Delhi for the investigation in that Province of offences notified under section 3.

(2) Subject to any orders which the Central Government may make in this behalf, members of the said police establishment shall have throughout the Chief Commissioner's Province of Delhi, in relation to the investigation of such offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of that Province have in connection with the investigation of offences committed therein.

(3) Any member of the said police establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise in the Chief Commissioner's Province of Delhi any of the powers of the officer in charge of a police station in the area in which he is for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station.

Offences to be investigated by special police establishment.

3. The Central Government may, by notification in the official Gazette, specify the offences or classes of offences committed in connection with matters concerning Departments of the Central Government which are to be investigated by the Delhi Special Police Establishment.

Superintendence and administration of special police establishment.

4. (1) The superintendence of the Delhi Special Police Establishment shall vest in the Central Government.

(2) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government who shall exercise in respect of that police establishment such of the powers exerciseable by an Inspector General of Police in respect of the police force in a Province, as the Central Government may specify in this behalf.

Extension of powers and jurisdiction of special police establishment to other areas.

5. (1) The Central Government may by order extend to any area (including Railway areas) in British India outside the Chief Commissioner's Province of Delhi the powers and jurisdiction of members of the Delhi Special Police Establishment for the investigation of any offences or classes of offences specified in a notification under section 3.

(2) When by an order under sub-section (1) the powers and jurisdiction of members of the said police establishment are extended to any such area, a member thereof may, subject to any orders which the Central Government may make in this behalf, discharge the functions of a police officer in that area and shall, while so discharging such functions, be deemed to be a member of the police force of that area and be vested with the powers, functions and privileges and be subject to the liabilities of a police officer belonging to that police force.

Consent of Provincial Government to exercise of powers and jurisdiction.

6. Nothing contained in section 5 shall be deemed to enable any member of the Delhi Special Police Establishment to exercise powers and jurisdiction in any area in British India outside the Chief Commissioner's Province of Delhi, not being a Railway area, without the consent—

(a) in case such area is in a Governor's Province, of the Government of that Province and

(b) in case such area is in a Chief Commissioner's Province, of the Chief Commissioner.

Repeal of Ordinance XXII of 1946.

7. The Delhi Special Police Establishment Ordinance, 1946, is hereby repealed.

THE SPECIAL TRIBUNALS (SUPPLEMENTARY PROVISIONS) ACT, 1946.

ACT No. XXVI OF 1946.

[22nd *November*, 1946.

An Act to make certain provisions in relation to sentences and orders passed by Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943, on such Tribunals ceasing to function.

WHEREAS it is expedient to make certain provisions in relation to sentences and orders passed by Special Tribunals constituted under the Criminal Law Amendment Ordinance, 1943, on such Tribunals ceasing to function;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE SPECIAL TRIBUNALS (SUPPLEMENTARY PROVISIONS) ACT, 1946.

(2) It extends to the whole of British India.

Interpretation.

2. In this Act, "Special Tribunal" means a Special Tribunal constituted under the Criminal Law Amendment Ordinance, 1943.

Provision regarding sentences and orders of Special Tribunals which cease to function.

3. When any Special Tribunal ceases to function, the sentences or orders passed by it in any case shall, for the purposes of the provisions of the Code of Criminal Procedure, 1898, applicable in respect of those sentences or orders, be deemed to have been passed by the Court of Session within the local limits of whose jurisdiction the offences charged in the case are alleged to have taken place, or, if there be more than one such Court of Session, by such one of them as the High Court, either in appeal or in revision or on a reference made to it specially in this behalf, may determine:

Provided that the references in this section to a Court of Session shall where the offences charged in the case are alleged to have taken place in a Presidency town, be construed as references to the Chief Presidency Magistrate.

Repeal of Ord. XXIII of 1946.

4. The Special Tribunals (Supplementary Provisions) Ordinance, 1946, is hereby repealed.

THE BANKING COMPANIES (RESTRICTION OF BRANCHES) ACT, 1946.

ACT No. XXVII OF 1946.

[22nd November, 1946.

An Act to restrict the opening and removal of branches by banking companies.

WHEREAS it is expedient to restrict the indiscriminate opening and removal of branches by banking companies;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE BANKING COMPANIES (RESTRICTION OF BRANCHES) ACT, 1946.

(2) It extends to the whole of British India.

Interpretation.

2. In this Act,—

(a) "banking company" means a banking company as defined in section 277-F of the Indian Companies Act, 1913;

(b) "branch" includes any sub-office, pay-office, sub-pay-office and any place of business of a banking company at which deposits are received, cheques cashed or moneys lent;

(c) the expression "officer" has the meaning assigned to it in the Indian Companies Act, 1913;

(d) "Reserve Bank" means the Reserve Bank of India.

Restriction on opening and removal of branches.

3. (1) No banking company shall open a new branch or change the location of an existing branch without obtaining prior permission in writing from the Reserve Bank.

(2) The Reserve Bank may, before giving the permission referred to in sub-section (1) to any banking company, take into consideration its financial condition and history, the general character of its management, the adequacy of its capital structure and earning prospects and the public interests to be served by the branch.

(3) For all or any of the purposes referred to in sub-section (2), the Reserve Bank, may, with the previous approval of the Central Government, cause an inspection to be made of the books, accounts and other documents of the banking company by any competent person authorised by the Reserve Bank, and it shall be the duty of every director or other officer of the banking company to produce to any person so authorised all such books, accounts and other documents in his custody or power relating to the affairs of the banking company as the person so authorised may require of him.

(4) Any person making an inspection under sub-section (3) may examine on oath any director or other officer of the banking company in relation to its business, and may administer an oath accordingly.

Penalty.

4. (1) If any banking company opens a branch or changes the location of an existing branch in contravention of section 3, every director or other officer of the banking company who is knowingly and wilfully a party to the contravention shall be liable to a fine which may extend to one hundred rupees for every day during which that branch remains open for business or, as the case may be, the change in its location continues.

(2) If any person refuses to produce any book, account or other document which under section 3 it is his duty to produce, or to answer any question relating to the business of the banking company, he shall be liable to a fine which may extend to five hundred rupees in respect of each offence, and if he persists in such refusal, to a further fine which may extend to fifty rupees for every day during which the offence continues.

THE HINDU MARRIAGE DISABILITIES REMOVAL ACT, 1946.

ACT No. XXVIII OF 1946.

[22nd November, 1946.

An Act to remove certain disabilities and doubts under Hindu Law in respect of marriages between Hindus.

WHEREAS it is expedient to remove certain disabilities and doubts under the Hindu Law in respect of marriages between Hindus;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE HINDU MARRIAGE DISABILITIES REMOVAL ACT, 1946.

(2) It extends to the whole of British India.

Marriages between persons of same *gotra* or *pravara* or of different sub-divisions of the same caste.

2. Notwithstanding any text, rule or interpretation of the Hindu Law or any custom or usage, a marriage between Hindus, which is otherwise valid, shall not be invalid by reason only of the fact that the parties thereto—

(a) belong to the same *gotra* or *pravara*, or

(b) belong to different sub-divisions of the same caste.

THE INDIAN TEA CONTROL (AMENDMENT) ACT, 1946.

ACT No. XXIX OF 1946.

[22nd November, 1946.

An Act further to amend the Indian Tea Control Act, 1938.

WHEREAS it is expedient further to amend the Indian Tea Control Act, 1938, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE INDIAN TEA CONTROL (AMENDMENT) ACT, 1946.

Amendment of section 17, Act VIII of 1938.

2. In section 17 of the Indian Tea Control Act, 1938—

(a) in sub-section (2-A), for the words "he may, within one month from the date of the order whereby he receives such right, apply to the Committee for a special export licence covering that further quantity, and the committee shall," the following shall be substituted namely:—

"he may apply to the Committee for a special export licence covering that further quantity, and the Committee, unless prevented by the operation of any other provision of this Act shall,";

(b) in sub-section (2-B) the words "within a period of six months from the date on which it was granted" shall be omitted;

(c) in sub-section (3), for the word "March" the word "May" shall be substituted, and to the said sub-section the following proviso shall be added, namely:—

'Provided that a special export licence issued before the 1st day of April, 1947, shall be valid up to the 31st day of March, 1947."

THE REGISTRATION OF TRANSFERRED COMPANIES (AMENDMENT ACT), 1946.

ACT No. XXX OF 1946.

[22nd November, 1946.

An Act to amend the Registration of Transferred Companies Ordinance, 1942.

WHEREAS it is expedient to amend the Registration of Transferred Companies Ordinance, 1942, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

Short title.

1. This Act may be called THE REGISTRATION OF TRANSFERRED COMPANIES (AMENDMENT) ACT, 1946.

Insertion of new section 2-A in Ordinance LIV of 1942.

2. After section 2 of the Registration of Transferred Companies Ordinance, 1942, (hereinafter referred to as the said Ordinance), the following section shall be inserted, namely:—

Cancellation of registration. order."

"2-A. The Central Government may at any time by order cancel the registration of any company under this Ordinance on such terms and conditions as may be specified in the

Amendment of section 3 Ordinance LIV of 1942.

3. In section 3 of the said Ordinance, for the words figures and brackets "by section 2, except the power to make rules conferred by sub-section (3) of that section" the following shall be substituted, namely:—

"by section 2 [except the power to make rules under sub-section (3) thereof] and section 2-A".

THE FOREIGNERS ACT, 1946.

ACT No. XXXI OF 1946.

[22nd November, 1946.

An Act to confer upon the Central Government certain powers in respect of foreigners.

WHEREAS it is expedient to provide for the exercise by the Central Government of certain powers in respect of the entry of foreigners into British India, their presence therein and their departure therefrom;

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called THE FOREIGNERS ACT, 1946.

(2) It extends to the whole of British India.

Definitions.

2. In this Act—

(a) "foreigner" means a person who—

(i) is not a natural-born British subject as defined in sub-section (1) and (2) of section 1 of the British Nationality and Status of Aliens Act 1914, or

(ii) has not been granted a certificate of naturalization as a British subject under any law for the time being in force in British India, or

(iii) is not a ruler or subject of an Indian State, or

(iv) is not a native of the Tribal areas:

Provided that any British subject who, under any law for the time being in force in British India, ceases to be a British subject shall thereupon be deemed to be a foreigner;

(b) "prescribed" means prescribed by orders made under this Act;

(c) "specified" means specified by direction of a prescribed authority.

Power to make orders.

3. (1) The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into British India or their departure therefrom or their presence or continued presence therein.

(2) In particular and without prejudice to the generality of the foregoing power, orders made under this section may provide that the foreigner—

(a) shall not enter British India, or shall enter British India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed;

(b) shall not depart from British India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed;

(c) shall not remain in British India or in any prescribed area therein;

(d) shall remove himself to, and remain in, such area in British India as may be prescribed;

(e) shall comply with such conditions as may be prescribed or specified—

(i) requiring him to reside in a particular place;

(ii) imposing any restrictions on his movements;

(iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;

(iv) requiring him to allow his photograph and finger impressions to be taken and to furnish specimens of his handwriting and signature to such authority and at such time and place as may be prescribed or specified;

(v) requiring him to submit himself to such medical examination by such authority and at such time and place as may be prescribed or specified;

(vi) prohibiting him from association with persons of a prescribed or specified description;

(vii) prohibiting him from engaging in activities of a prescribed or specified description;

(viii) prohibiting him from using or possessing prescribed or specified articles;

(ix) otherwise regulating his conduct in any such particular as may be prescribed or specified;

(f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all prescribed or specified restrictions or conditions;

(g) shall be arrested and detained or confined; and may make provision for such incidental and supplementary matters as may, in the opinion of the Central Government, be expedient or necessary for giving effect to this Act.

Internees.

4. (1) Any foreigner (hereinafter referred to as an internee) in respect of whom there is in force any order made under clause (g) of sub-section (2) of section 3, directing that he be detained or confined, shall be detained or confined in such place and manner and subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time determine.

(2) Any foreigner (hereinafter referred to as a person on parole) in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 requiring him to reside at a place set part for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

(3) No person shall—

(a) knowingly assist an internee or a person on parole to escape from custody or the place set apart for his residence, or knowingly harbour an escaped internee or person on parole, or

(b) give an escaped internee or a person on parole any assistance with intent thereby to prevent, hinder or interfere with the apprehension of the internee or the person on parole.

(4) The Central Government may by order provide for regulating access to, and the conduct of persons in, places in British India where internees or persons on parole are detained or restricted, as the case may be, and for prohibiting or regulating the despatch or conveyance from outside such places to or for internees or persons on parole therein of such articles as may be prescribed.

Change of name.

5. (1) No foreigner who was in British India on the date on which this Act came into force shall, while in British India after that date, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said date.

(2) Where, after the date on which this Act came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style, other than that under which that trade or business was being carried on immediately before the said date, he shall, for the purposes of sub-section (1), be deemed to be using a name other than that by which he was ordinarily known, immediately before the said date.

(3) In relation to any foreigner who, not having been in British India on the date on which this Act came into force, thereafter enters British India, sub-sections (1) and (2) shall have effect as if for any reference in those sub-sections to the date on which this Act came into force there were substituted a reference to the date on which he first enters British India thereafter.

(4) For the purposes of this section—

(a) the expression "name" includes a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(5) Nothing in this section shall apply to the assumption or use—

(a) of any name in pursuance of a Royal licence or permission granted by the Central Government; or

(b) by any married woman, of her husband's name.

Obligations of masters of vessels, etc.

6. (1) The master of any vessel landing or embarking at a port in British India passengers coming to or going from that port by sea and the pilot of any aircraft landing or embarking at any place in British India passengers coming to or going from that place by air, shall furnish to such person and in such manner as may be prescribed a return giving the prescribed particulars with respect to any passengers or members of the crew, who are foreigners.

(2) Any District Magistrate and any Commissioner of Police or, where there is no Commissioner of Police, any Superintendent of Police may, for any purpose connected with the enforcement of this Act or any order made thereunder, require the master of any such vessel or the pilot of any such aircraft to furnish such information as may be prescribed in respect of passengers or members of the crew on such vessel or aircraft, as the case may be.

(3) Any passenger on such vessel or such aircraft and any member of the crew of such vessel or aircraft shall furnish to the master of the vessel or the pilot of the aircraft, as the case may be, any information required by him for the purpose of furnishing the return referred to in sub-section (1) or for furnishing the information required under sub-section (2).

(4) For the purposes of this section—

(a) "master of a vessel" and "pilot of any aircraft" shall include any person authorised by such master or pilot, as the case may be, to discharge on his behalf any of the duties imposed on him by this section;

(b) "passenger" means any person not being a *bona fide* member of the crew, travelling or seeking to travel on a vessel or aircraft.

Obligation of hotel keepers and others to furnish particulars.

7. (1) It shall be the duty of the keeper of any premises whether furnished or unfurnished where lodging or sleeping accommodation is provided for reward, to submit to such person and in such manner such information in respect of foreigners accommodated in such premises, as may be prescribed.

Explanation.—The information referred to in this sub-section may relate to all or any of the foreigners accommodated at such premises and may be required to be submitted periodically or at any specific time or occasion.

(2) Every person accommodated in any such premises shall furnish to the keeper thereof a statement containing such particulars as may be required by the keeper for the purpose of furnishing the information referred to in sub-section (1).

(3) The keeper of every such premises shall maintain a record of the information furnished by him under sub-section (1) and of the information obtained by him under sub-section (2) and such record shall be maintained in such manner and preserved for such period as may be prescribed, and shall at all times be open to inspection by any police officer or by a person authorised in this behalf by the District Magistrate.

Determination of nationality.

8. (1) When a foreigner is recognised as a national by the law of more than one foreign country or where for any reason it is uncertain what nationality if any is to be ascribed to a foreigner, that foreigner may be treated as the national of the country with which he appears to the prescribed authority to be most closely connected for the time being in interest or sympathy or if he is of uncertain nationality, of the country with which he was last so connected:

Provided that where a foreigner acquired a nationality by birth, he shall, except where the Central Government so directs either generally or in a particular case, be deemed to retain that nationality unless he proves to the satisfaction of the said authority that he has subsequently acquired by naturalisation or otherwise some other nationality and still recognised as entitled to protection by the Government of the country whose nationality he has so acquired.

(2) A decision as to nationality given under sub-section (1) shall be final and shall not be called in question in any Court:

Provided that the Central Government, either of its own motion or on an application by the foreigner concerned, may revise any such decision.

Burden of proof.

9. If in any case not falling under section 8 any question arises with reference to this Act or any order made or direction given thereunder, whether any person is or is not a foreigner or is or is not a foreigner of a particular class or description the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Indian Evidence Act, 1872, lie upon such person.

Power to exempt from application of Act.

10. The Central Government may by order declare that any or all of the provisions of this Act or the orders made thereunder shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified, to or in relation to any individual foreigner or any class or description of foreigner.

Power to give effect to orders, directions, etc.

11. (1) Any authority empowered by or under or in pursuance of the provisions of this Act to give any direction or to exercise any other power, may, in addition to any other action expressly provided for in this Act, take, or cause to be taken such steps and use, or cause to be used, such force as may, in its opinion, be reasonably necessary for securing compliance with such direction or for preventing or rectifying any breach thereof, or for the effective exercise of such power as the case may be.

(2) Any police officer may take such steps and use such force as may, in his opinion, be reasonably necessary for securing compliance with any order made or direction given under or in pursuance of the provisions of this Act or for preventing or rectifying any breach of such order or direction.

(3) The power conferred by this section shall be deemed to confer upon any person acting in exercise thereof a right of access to any land or other property whatsoever.

Power to delegate authority.

12. Any authority upon which any power to make or give any direction, consent or permission or to do any other act is conferred by this Act or by any order made thereunder may, unless express provision is made to the contrary, in writing authorise, conditionally or otherwise, any authority subordinate to it to exercise such power on its behalf, and thereupon the said subordinate authority shall, subject to such conditions as may be contained in the authorisation, be deemed to be the authority upon which such power is conferred by or under this Act.

Attempts, etc., to contravene the provisions of this Act, etc.

13. (1) Any person who attempts to contravene, or abets or attempts to abet, or does any act preparatory to, a contravention of, the provisions of this Act or of any order made or direction given thereunder, or fails to comply with any direction given in pursuance of any such order, shall be deemed to have contravened the provisions of this Act.

(2) Any person who, knowing or having reasonable cause to believe that any other person has contravened the provisions of this Act or of any order made or direction given thereunder, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention shall be deemed to have abetted that contravention.

(3) The master of any vessel or the pilot of any aircraft, as the case may be, by means of which any foreigner enters or leaves British India in contravention of any order made under, or direction given in pursuance of, section 3 shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have contravened this Act.

Penalties.

14. If any person contravenes the provisions of this Act or of any order made thereunder, or any direction given in pursuance of this Act or such order, he shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if such person has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

Protection to persons acting under this Act.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Application of other laws not barred.

16. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Registration of Foreigners Act, 1939, the Indian Passport Act, 1920, and of any other enactment for the time being in force.

Repeals.

17. The Foreigners Act, 1864, the Foreigners Act, 1940, and the Foreigners Act (Amendment) Ordinance, 1946, are hereby repealed.

MADRAS ACTS, 1945.

THE CRIMINAL TRIBES (MADRAS AMENDMENT) ACT, 1945.

ACT No. XXV OF 1945.

[6th December, 1945.

An Act further to amend the Criminal Tribes Act, 1924, in its application to the Province of Madras.

WHEREAS it is expedient further to amend the Criminal Tribes Act, 1924, in its application to the Province of Madras, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE CRIMINAL TRIBES (MADRAS AMENDMENT) ACT, 1945.

Amendment of section 10, Act VI of 1924.

2. In the proviso to sub-section (1) of section 10 of the Criminal Tribes Act, 1924, after the words "District Magistrate", the words "or, subject to his control, the Superintendent of Police" shall be inserted.

THE MADRAS PAWNBROKERS (AMENDMENT) ACT, 1945.

ACT No. XXVI OF 1945.

[18th December, 1945.

An Act to amend the Madras Pawnbrokers Act, 1943.

WHEREAS it is expedient to amend the Madras Pawnbrokers Act, 1943, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS PAWNBROKERS (AMENDMENT) ACT, 1945.

(2) This section shall come into force at once; and section 2 shall come into force on the expiry of three months from the date on which section 1 comes into force.

Amendment of section 2, Madras Act XXIII of 1943.

2. In sub-clause (ii) of clause (5) of section 2 of the Madras Pawnbrokers Act, 1943, for the word "company", the words, figures and letter "banking company as defined in section 277-F of the Indian Companies Act, 1913" shall be substituted.

MADRAS ACTS, 1946.

THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT) ACT, 1946.

ACT No. I OF 1946.

[11*th January*, 1946.

An Act further to amend the Madras District Municipalities Act, 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS DISTRICT MUNICIPALITIES (AMENDMENT) ACT, 1946.

(2) It shall be deemed to have come into force on the 1st day of January, 1945.

Amendment of section 12-C, Madras Act V of 1920.

2. In clause (*a*) of sub-section (6) of section 12-C of the Madras District Municipalities Act, 1920—

(*i*) for the words "one thousand two hundred rupees", the words "one thousand five hundred rupees" shall be substituted;

(*ii*) the following proviso shall be added at the end, namely:—

"Provided that in the case of the Madura Municipality, the maximum limit of one thousand five hundred rupees per mensem specified above shall not be deemed to prevent the commissioner of that municipality, if he is in the service of the Crown, from drawing war allowance at the rate admissible in the case of Government servants of similar standing and status."

THE MADRAS MOTOR VEHICLES TAXATION (AMENDMENT ACT, 1946.

ACT No. II OF 1946.

[15*th January*, 1946.

An Act further to amend the Madras Motor Vehicles Taxation Act, 1931.

WHEREAS it is expedient further to amend the Madras Motor Vehicles Taxation Act, 1931, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS MOTOR VEHICLES TAXATION (AMENDMENT) ACT, 1946.

Amendment of section 10, Madras Act III of 1931.

2. In section 10 of the Madras Motor Vehicles Taxation Act, 1931—

(1) in clause (*a*) of sub-section (1)—

(*a*) to sub-clause (iv), the following proviso shall be added, namely:—

"Provided that where a municipality is constituted on or after the 1st day of April 1938, there shall be paid to the municipal council out of the sum payable under this sub-clause to the district board of the district in which the municipality is situated, such sum as may be determined by the Provincial Government in the prescribed manner";

(*b*) to sub-clause (v), the following proviso shall be added, namely:—

"Provided that where a municipality is constituted on or after the 1st day of April 1931, there shall be paid to the municipal council out of the sum payable under this sub-clause to the district board of the district in which the municipality is situated, a sum equi-

valent to the average annual income derived by the district board from tolls or vehicle tax on motor vehicles or both during the three years ending on the 31st day of March 1931, within the area for which the municipality was constituted. If for any reason such average annual income cannot be determined in the case of any municipal council, the sum payable to the council under this proviso shall be determined by the Provincial Government in consultation with the district board concerned'';

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

''(3-A) (a) The Provincial Government may from the revenues of the Province pay to any local body such amount as they think fit, for the purpose of making good the deficit referred to in sub-section (3) for any year; but the amount so paid shall be deducted from any sum payable to that local body for the aforesaid purpose under the said sub-section in any subsequent year or years and credited to the revenues of the Province.

(b) Any amount paid under clause (a) shall be utilized by the local body in such manner and for such purposes, as may be prescribed.

(c) If the whole or any portion of the amount paid to any local body under clause (a) for making good the deficit for any year not earlier than the year commencing on the 1st day of April 1941, remains unspent for a prescribed period, the amount which remains so unspent shall be adjusted to the credit of the local body in the fund called 'the Provincial Road Fund'. The Provincial Government may from such Fund make grants to local bodies subject to such conditions as may be prescribed.''

THE MADRAS LEGISLATIVE ASSEMBLY (RAILWAY EMPLOYEES REMOVAL OF DISQUALIFICATIONS) ACT, 1946.

ACT No. III OF 1946.

[1st February, 1946.

An Act for the removal of certain disqualifications for the membership of the Madras Legislative Assembly.

WHEREAS it is necessary to remove the disqualification imposed on persons holding office in the service of the Bengal-Nagpur Railway, the Madras and Southern Mahratta Railway or the South Indian Railway, for being chosen as, and for being, members of the Madras Legislative Assembly;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in excise of the powers so-assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS LEGISLATIVE ASSEMBLY (RAILWAY EMPLOYEES REMOVAL OF DISQUALIFICATIONS) ACT, 1946.

Removal of disqualification of holders of offices in the Bengal-Nagpur, Madras and Southern Mahratta and South Indian Railways.

2. No person shall be disqualified for being chosen as, or for being, a member of the Madras Legislative Assembly to represent the Railway Trade Union Labour Constituency, by reason only of the fact that he holds an office of profit in the service of the Bengal Nagpur Railway, the Madras and Southern Mahratta Railway or the South Indian Railway.

THE MADRAS GAMING (AMENDMENT) ACT, 1946.

ACT No. IV OF 1946.

[29th January, 1946.

An Act further to amend the Madras Gaming Act, 1930.

WHEREAS it is expedient further to amend the Madras Gaming Act, 1930, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

Now, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS GAMING (AMENDMENT) ACT, 1946.

Substitution of new section for section 3, Madras Act III of 1930.

2. For section 3 of the Madras Gaming Act, 1930 (hereinafter referred to as the said Act), the following section shall be substituted, namely:—

Definitions.

"3. In this Act, unless there is anything repugnant in the subject or context—

'common gaming-house' means any house, room, tent, enclosure, vehicle, vessel or any place whatsoever in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel or place whether by way of charge for the use of instruments of gaming or of the house, room, tent, enclosure, vehicle, vessel or place or otherwise howsoever; and includes any house, hoom, tent, enclosure, vehicle, vessel or place opened, kept or used or permitted to be opened, kept or used for the purpose of gaming;

'gaming' does not include a lottery but includes wagering or betting, except wagering or betting on a horse-race when such wagering or betting takes place—

(i) on the date on which such race is to be run, and

(ii) in a place or places within the race enclosure which the authority controlling such race has, with the sanction of the Provincial Government, set apart for the purpose.

For the purposes of this definition, wagering or betting shall be deemed to comprise the collection or soliciting of bets, the receipt or distribution of winnings or prizes, in money or otherwise, in respect of any wager or bet, or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution;

'instruments of gaming' include any article used or intended to be used as a subject or means of gaming, any document used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming, and any winnings or prizes, in money or otherwise, distributed or intended to be distributed in respect of any gaming."

Substitution of new section for section 4, Madras Act III of 1930.

3. For section 4 of the said Act, the following section shall be substituted, namely:—

Penalty for opening, etc., any enclosure, etc., for gaming on a horse-race.

"4. (1) Whoever—

(a) being the owner or occupier or having the use of any house, room, tent, enclosure, vehicle, vessel or place, opens, keeps or uses the same for the purpose of gaming on a horse-race, or

(b) being the owner or occupier of any such house, room, tent, enclosure, vehicle, vessel or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid, or

(c) has the care or management of, or in any manner assists in conducting the business of, any such house, room, tent, enclosure, vehicle, vessel or place opened, occupied, kept or used for the purpose aforesaid, or

(d) advances or furnishes money for the purpose of gaming on a horse-race with persons frequenting any such house, room, tent, enclosure, vehicle, vessel or place,

shall be punishable with imprisonment which may extend to seven months, or with fine which may extend to one thousand rupees, or with both:

Provided that in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and fine shall not be less than five hundred rupees.

(2) Whoever is found in any house, room, tent, enclosure, vehicle, vessel or place referred to in sub-section (1), gaming on a horse-race or present for the purpose of gaming on such race shall be punishable with fine which may extend to five hundred rupees or with imprisonment which may extend to one month or with both.

Any person found in any such house, room, tent, enclosure, vehicle, vessel or place during any gaming on a horse-race therein shall be presumed, until the contrary is proved, to have been there for the purpose of gaming on a horse-race.

(3) Whoever is found gaming on a horse-race in any public street, or thoroughfare, or in any place to which the public have or are permitted to have access shall be punishable with fine which may extend to three hundred rupees, or with imprisonment which may extend to three months, or with both."

Insertion of new section 11-A in Madras Act III of 1930.

4. After section 11 of the said Act, the following section shall be inserted, namely:—

Payment of portion of fine to informer or Police.

"11-A. The Magistrate may direct any portion, not exceeding one-half of any fine which shall be levied under sections 4, 8 or 9, and of the moneys or proceeds of articles seized and ordered to be forfeited under section 10 to be paid to informers or Police Officers who may have assisted in the detection of the offender."

THE MADRAS DEBT CONCILIATION (AMENDMENT) ACT, 1946.

ACT No. V OF 1946.

[27th February, 1946.

An Act further to amend the Madras Debt Conciliation Act, 1936.

WHEREAS it is expedient further to amend the Madras Debt Conciliation Act, 1936, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS DEBT CONCILIATION (AMENDMENT) ACT, 1946.

Amendment of section 4-A, Madras Act XI of 1936.

2. Section 4-A of the Madras Debt Conciliation Act, 1936, shall be renumbered as sub-section (1) of that section and to the said section as so renumbered, the following sub-section shall be added, namely:—

"(2) All applications received by a board and not finally disposed of by it before it ceased to exist, shall be deemed to have been dismissed on the date on which this sub-section comes into force.

Explanation.—Nothing contained in this sub-section shall apply to applications deemed to have been dismissed under sub-section (1)."

THE MADRAS DISTRICT MUNICIPALITIES (SECOND AMENDMENT) ACT, 1946.

ACT No. VI OF 1946.

[11th March, 1946.

An Act further to amend the Madras District Municipalities Act, 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, for the purpose hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS DISTRICT MUNICIPALITIES (SECOND AMENDMENT) ACT, 1946.

Amendment of section 81, Madras Act V of 1920.

2. In section 81 of the Madras District Municipalities Act, 1920—

(*i*) sub-section (3) shall be lettered as clause (*a*) of sub-section (3) and in the clause as so lettered, for the words "The municipal council may, in the case of lands", the words, brackets and letter "Save as otherwise provided in clause (*b*), the municipal council shall, in the case of lands" shall be substituted;

(*ii*) to the same sub-section, the following clause shall be added, namely:—

(*b*) In the case of railway lands which are not used exclusively for agricultural purposes and are not occupied by, or adjacent and appurtenant to, buildings, the municipal council shall levy these taxes on the annual value of such lands, and the Provincial Government shall have power to make rules regarding the manner in which, the person or persons by whom and the intervals at which, the annual value of such lands shall be estimated or revised, and they may also by such rules, restrict or modify the application of the provisions contained in Schedule IV to such lands".

THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (AMENDMENT) ACT, 1946.

ACT No. VII OF 1946.

[21st March, 1946.

An Act further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920.

WHEREAS it is expedient further to amend the Madras District Municipalities Act, 1920, and the Madras Local Boards Act, 1920, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

Now, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (AMENDMENT) ACT, 1946.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

Insertion of new section 61-A in Madras Act V of 1920.

2. After section 61 of the Madras District Municipalities Act, 1920, the following section shall be inserted, namely:—

Duty of municipal council in respect of public streets withdrawn from its control.

"61-A. Where any public street has been withdrawn from the control of a municipal council under sub-section (2) of section 61 and placed under the control of the Highways Department of the Provincial Government, it shall be the duty of the municipal council to provide at the cost of the municipal fund, to such extent as the Provincial Government may by general or special order direct,—

(*a*) for the lighting, watering, scavenging, supply of water to, and drainage of such street;

(*b*) for the provision, maintenance and repair of the water-supply mains, drains and sewers in, alongside or under such street;

(*c*) for the provision, maintenance and repair of footways attached to such street;

Provided that where in the discharge of such duties, it is necessary for the council to open and break up the soil or pavement of any such street, the council shall obtain the previous consent of such officer of the Highways Department as the Provincial Government may by general or special order specify:

Provided further that in cases of emergency, the council may, without such consent, open and break up the soil or pavement of any such street, but shall, as far as practicable, restore such soil or pavement to the condition in which it was immediately before it was opened and broken up; and a report of the action so taken and the reasons therefor shall be sent forthwith to the officer specified under the foregoing proviso."

Insertion of new sections 60-A and 60-B in Madras Act XIV of 1920.

3. After section 60 of the Madras Local Boards Act, 1920, (hereinafter referred to as the said Act), the following sections shall be inserted, namely:—

Duty of local board in respect of public roads excluded from the operation of the Act.

"60-A. Where any public road has been excluded from the operation of this Act under sub-section (3) of section 60 and placed under the control of the Highways Department of the Provincial Government (hereinafter referred to as the Highways Department), it shall be the duty of the local board to provide at the cost of the local fund, to such extent as the Provincial Government may by general or special order direct,—

(*a*) for the lighting, watering, scavenging, supply of water to, and drainage of such road;

(*b*) for the provision, maintenance and repair of the water-supply mains, drains and sewers in, alongside or under such road;

(*c*) for the provision, maintenance and repair of footways attached to such road:

Provided that where in the discharge of such duties, it is necessary for the local board to open and break up the soil or pavement of any such road, the local board shall obtain the previous consent of such officer of the Highways Department as the Provincial Government may by general or special order specify:

Provided further that in cases of emergency, the local board may, without such consent, open and break up the soil or pavement of any such street, but shall, as far as practicable, restore such soil or pavement to the condition in which it was immediately before it was opened and broken up; and a report of the action so taken and the reasons therefor shall be sent forthwith to the officer specified under the foregoing proviso.

Compulsory transfer to Government of rest-house, travellers' bungalow, etc., vesting in local board.

60-B. (1) In the case of any public road referred to in section 60-A, the Chief Engineer of the Provincial Government in charge of roads may, if in his opinion it is necessary to do so, by order in writing declare that—

(a) any rest-house or travellers' bungalow which vests in the local board and is in the vicinity of such road, is necessary for the proper inspection and maintenance of such road; or

(b) any tools and plant which vest in the local board are necessary for the purpose aforesaid.

On and from the date of the service of such order on the local board, the rest-house, travellers' bungalow or tools and plant, as the case may be, shall vest in the Provincial Government.

(2) Where in pursuance of sub-section (1), any property of the local board vests in the Provincial Government, the local board shall be paid compensation, the amount of which shall be determined in the manner, and in accordance with the principles, hereinafter set out, that is to say:—

(a) In the case of a rest-house or travellers' bungalow, the said Chief Engineer shall determine the amount of compensation payable, in consultation with the president of the local board concerned and the District Collector and in doing so, shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, in so far as they can be made applicable to the case.

(b) In the case of tools and plant, their market value on the date of service of the order under sub-section (1) shall be determined by the said Chief Engineer in consultation with the president of the local board concerned.

(c) If the local board does not accept the amount determined by the said Chief Engineer under clause (a) or clause (b), the board may refer the matter to the Provincial Government whose decision thereon shall be final and binding on the board and shall not be liable to be questioned in any Court of law."

Amendment of section 68, Madras Act XIV of 1920.

4. In sub-section (3) of section 68 of the said Act, after the proviso, the following proviso shall be added, namely:—

"Provided further that nothing contained in this sub-section shall be deemed to prevent the appointment of the Divisional Engineer of the Highways Department to perform all the functions of the District Engineer."

Insertion of new section 73-C in Madras Act XIV of 1920.

5. After section 73-B of the said Act, the following section shall be inserted, namely:—

Powers of appointment control and punishment in respect of the engineering establishment of district boards.

"73-C. Notwithstanding anything contained in this Act—

(a) the Provincial Government may appoint the Divisional Engineer of the Highways Department to perform all the functions of the district engineer; and

(b) the Divisional Engineer of the Highways Department appointed under clause (a) to perform the functions of the district engineer shall exercise in respect of the officers and servants of the Engineering Department of the district board (including ministerial and inferior servants and menials), all powers of appointment, transfer, grant of leave, control and punishment which by or under this Act vest in the executive authority:

Provided that all appointments and punishments made by the Divisional Engineer shall be subject to the approval of the executive authority:

Provided further that if for any reason, the executive authority disagrees with the orders of the Divisional Engineer in regard to any appointment or punishment, the executive authority shall refer the matter to the Provincial Government whose decision shall be final."

Amendment of section 74, Madras Act XIV of 1920.

6. In section 74 of the said Act—

(i) to sub-section (1), the following proviso shall be added, namely:—

"Provided that the Provincial Government may, even without the application of a district board, place at its disposal the services of any Assistant Engineer of the Highways Department for employment by the district board for the purposes of this Act and the dis-

trict board shall pay to such person the salary he may be entitled to receive under the rules of the branch of the Government service to which he belongs and shall also make any contribution towards the pension, provident fund and leave allowances of such person which may be required by the conditions of his service under the Crown to be made by him or on his behalf'';

(ii) after sub-section (5), the following sub-section shall be added, namely:—

''(6) Every district board shall make such contribution towards the salary, allowances including leave allowances, pension and provident fund of the officers and servants in the office of the Divisional Engineer of the Highways Department as the Provincial Government may by general or special order determine.''

Transitional provision.

7. For the purpose of giving effect to the provisions of the said Act as amended by this Act, and notwithstanding anything contained in the said Act, the Provincial Government may, after consulting the district board, transfer any officer or servant of the board to service in the Highways Department.

Power to remove difficulties.

8. If any difficulty arises in giving effect to the provisions of this Act or of the Madras District Municipalities Act, 1920, or the Madras Local Boards Act, 1920, as amended by this Act, the Provincial Government may, as occasion requires, by order, do anything which appears to them to be necessary for the purpose of removing the difficulty.

THE MADRAS ELEMENTARY EDUCATION (AMENDMENT) ACT, 1946.

ACT No. VIII OF 1946.

[16th March, 1946.

An Act further to amend the Madras Elementary Education Act, 1920.

WHEREAS it is expedient further to amend the Madras Elementary Education Act, 1920, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS ELEMENTARY EDUCATION (AMENDMENT) ACT, 1946.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

Amendment of section 51, Madras Act VIII of 1920.

2. In section 51 of the Madras Elementary Education Act, 1920 (hereinafter referred to as the said Act)—

(i) in sub-section (1), for the words ''the Commissioner in the case of the Corporation of Madras, the chairman concerned in the case of any other municipality, and the president of the district board concerned in the case of non-municipal areas'', the words ''the District Educational Officer concerned'' shall be substituted; and

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

''(2) Against any order of a District Educational Officer imposing a penalty under sub-section (1), an appeal shall lie, within one month of the date of service of such order, to the Director of Public Instruction who may confirm, reduce or cancel the penalty.''

Transitional provision.

3. (1) An appeal shall lie to the Director of Public Instruction under section 51 (2) of the said Act as amended by this Act against orders imposing a penalty, passed before the commencement of this Act under section 51 (1) of the said Act.

(2) The Director of Public Instruction shall pass orders on appeals preferred under section 51 (2) of the said Act and pending disposal at the commencement of this Act.

THE MADRAS LAND ACQUISITION (EX-SERVICE MEN'S SETTLEMENTS) ACT, 1946.

ACT No. IX OF 1946.

[31st March, 1946.

An Act to provide for the acquisition of lands for settlements of ex-service men.

WHEREAS it is expedient to provide for the acquisition of lands for settlements of ex-service men;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Act may be called THE MADRAS LAND ACQUISITION (EX-SERVICE MEN'S SETTLEMENTS) ACT, 1946.

(2) It extends to the whole of the Province of Madras.

(3) This section shall come into force at once and the Provincial Government may, from time to time, by notification in the *Fort St. George Gazette*, apply the remaining provisions of this Act to the whole or any portion of the Province of Madras from such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "estate" means an estate as defined in the Madras Estates Land Act, 1908;

(2) "ex-service man" means an Indian subject of His Majesty who belonged to any of His Majesty's armed Forces on the 3rd September, 1939, or any date thereafter and who has been demobilized;

(3) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

(4) "prescribed" means prescribed by rules made under this Act.

Power of Government to acquire or take over temporarily lands in ryotwari tracts and estates.

3. (1) The Provincial Government may acquire, or take over for temporary occupation and use for any specified period, any land for the purposes of granting it to a society which consists or will consist predominantly of ex-service men and which is registered or is deemed to be registered or may be registered under the Madras Co-operative Societies Act, 1932, or any enactment for promoting collective farming.

(2) In the case of any land situated in an estate, the Provincial Government may, if they so desire, acquire only the kudivaram right.

(3) The Provincial Government shall be sole judges of the question whether the conditions of sub-section (1) are or are not fulfilled in any case, and their decision shall be final and shall not be liable to be questioned in any Court of law.

Procedure for acquisition, etc.

4. In acquiring or taking over for temporary occupation and use any land under section 3, the procedure specified in the Land Acquisition Act, 1894, shall, so far as may be, be followed and the compensation payable for the land on such acquisition or occupation shall be determined in accordance with the provisions of that Act:

Provided that if any land which is acquired is clear of buildings and does not form part of a residential area at the date of the publication of the notification under sub-section (1) of section 4 of the Land Acquisition Act, 1894, its price shall be fixed without reference to its potential building value.

Eviction of ryots from lands notified.

5. (1) Every land in an estate which the Provincial Government propose to acquire, or to take over for temporary occupation and use, shall be notified by the Provincial Government in such manner as may be prescribed.

(2) Any person who encroaches on any land notified as aforesaid shall be summarily evicted from such land by such authority and in such manner as may be prescribed.

Power to make rules.

6. The Provincial Government may make rules for all matters expressly required or allowed by this Act to be prescribed and to carry out the purposes of this Act.

Acquisition in respect of which proceedings were taken before the commencement of the Act.

7. Where before the commencement of this Act, proceedings were started for acquisition of any land under the Land Acquisition Act, 1894, for the purpose of granting it to a society such as is referred to in section 3, such land shall be deemed to have been validly acquired in accordance with this Act, whether acquisition proceedings were completed before or after the commencement of this Act.

THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1946.

ACT NO. X OF 1946.

[2nd April, 1946.

An Act further to amend the Madras Hindu Religious Endowments Act, 1926.

WHEREAS it is expedient further to amend the Madras Hindu Religious Endowments Act, 1926, for the purposes hereinafter appearing;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title.

1. This Act may be called THE MADRAS HINDU RELIGIOUS ENDOWMENTS (AMENDMENT) ACT, 1946.

Amendment of section 2, Madras Act II of 1927.

2. In section 2 of the Madras Hindu Religious Endowments Act, 1926 (hereinafter referred to as the said Act), the words "except the Presidency town" shall be omitted.

Amendment of section 9, Madras Act II of 1927.

3. In section 9 of the said Act—

(i) for clause (3), the following clause shall be substituted, namely:—

"(3) 'Court' means—

(i) the High Court, if the math or temple is situated within the Presidency-town; and

(ii) the Court of the District Judge, if the math or temple is situated in a district.

Explanation.—'Court' in relation to a specific endowment means the High Court or the Court of the District Judge according as the math or temple to which the specific endowment is attached is situated in the Presidency town or in a district.

If a specific endowment is attached to more than one math or temple, 'Court' in relation to such specific endowment means—

(i) the High Court or any one of the Courts of the District Judges concerned, if the maths or temples are situated both in the Presidency town and in one or more districts;

(ii) any one of the Courts of the District Judges concerned, if the maths or temples are situated in more than one district";

(ii) clause (5) and the Explanation thereto shall be omitted;

(iii) for clause (6), the following clause shall be substituted, namely:—

"(6) Hereditary trustee" means the trustee of a math, temple or specific endowments succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force";

(iv) in clause (9)—

(a) in sub-clause (a), after the words "in the case of a math," the words "or a specific endowments attached to a math" shall be inserted; and

(b) in sub-clause (b), after the words "in the case of a temple", the words "or a specific endowment attached to a temple" shall be inserted;

(v) to clause (11), the following Explanation shall be added, namely:—

"*Explanation.*—All property which belonged to, or was given or endowed for the support of a temple or math or for the performance of any service or charity connected therewith shall, for the purposes of this definition, be deemed to be a 'religious endowment' or 'endowment' notwithstanding that the temple or math has ceased to exist or ceased to be used as a place of religious worship, whether before or after the commencement of this Act"; and

(vi) after clause (11), the following clause shall be inserted, namely:—

"(11-A) 'Specific endowment' means any property or money endowed for the performance of any specific service or charity in a temple or math."

Amendment of section 13, Madras Act II of 1927.

4. In section 13 of the said Act, after sub-section (3), the following sub-section shall be added, namely:—

"(4) Notwithstanding anything contained in sub-sections (1) and (2), a person appointed to act in the place of the President or a Commissioner who has been granted leave, shall be entitled to hold office as President or Commissioner only during the continuance of the vacancy or for such shorter period as may be fixed by the Provincial Government."

Amendment of section 14, Madras Act II of 1927.

5. In section 14 of the said Act, after sub-section (2), the following sub-section shall be added, namely:—

"(3) The President and Commissioners shall be exempt from serving as jurors."

Insertion of new section 39-A in Madras Act II of 1927.

6. After section 39 of the said Act, the following section shall be inserted, namely:—

Application of sections 38 and 39 to specific endowments.

"39-A. The provisions of sections 38 and 39 shall, so far as may be, apply to a specific endowment attached to a temple or math."

Amendment of section 42, Madras Act II of 1927.

7. In section 42 of the said Act—

(i) in sub-section (1), for the words "the Board in the case of maths and excepted temples and the Assistant Commissioner in the case of other temples", the words "the Board" shall be substituted; and

(ii) in sub-section (2), the words "or Assistant Commissioner" shall be omitted.

Amendment of section 43, Madras Act II of 1927.

8. In section 43 of the said Act, for sub-sections (2), (3) and (4), the following sub-sections shall be substituted, namely:—

"(2) Any office-holder or servant of a temple punished by a trustee under sub-section (1) may, within such time as may be prescribed, appeal to the Assistant Commissioner whose decision shall, in the case of a non-hereditary office-holder or servant, be final and shall not be liable to be modified or cancelled in a Court of Law.

(3) A hereditary office-holder or servant of a temple may, within such time as may be prescribed, prefer a further appeal to the Board against the order of an Assistant Commissioner on an appeal under sub-section (2) and the decision of the Board shall be final and shall not be liable to be modified or cancelled in a Court of Law."

Amendment of section 44-B, Madras Act II of 1927.

9. In sub-section (1) of section 44-B of the said Act—

(i) for the words "any inam granted for the performance of a charity or service connected with a math or temple", the words "any inam granted for the support or maintenance of a math or temple or for the performance of a charity or service connected therewith" shall be substituted; and

(ii) the following Explanation shall be added, namely:—

"*Explanation*.—Nothing contained in this sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the Madras Estates Land Act, 1908.

Substitution of new sections for sections 45 to 48, Madras Act II of 1927.

10. For sections 45 to 48 of the said Act, the following sections shall be substituted, namely:—

Maintenance of accounts and appointment of auditors.

"45. (1) The Board and the trustee of every math, temple or specific endowment shall keep regular accounts of all receipts and disbursements.

(2) The accounts of the Board, and of every math, temple or specific endowment, the annual income of which as determined under section 69 for the fasli year immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

(3) The accounts of every math, temple or specific endowment not governed by sub-section (2) shall be audited annually, or if the Board so directs in any case or class of cases, at shorter intervals.

(4) The audit shall be made—

(a) in the case of the Board, by auditors appointed by the Provincial Government;

(b) in the case of a math, temple or specific endowment the annual income of which as determined under section 69 for the fasli year immediately preceding is not less than one thousand rupees, by auditors appointed in the prescribed manner; and

(c) in the case of any other math, temple or specific endowment, by an officer or servant of the Board deputed by it for the purpose.

(5) Every auditor appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Submission of audit report.

46. After completing the audit for any year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report—

(a) to the Provincial Government, in the case of the accounts of the Board,

(b) to the Board, in the case of the accounts of a math or specific endowment attached to a math, and

(c) to the Assistant Commissioner concerned, in other cases.

Contents of the audit report.

47. (1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the Board, math, temple or specific endowment, as the case may be, or of loss or waste of money or other property thereof, caused by neglect or misconduct.

(2) The auditor shall also report on any other matter relating to the accounts as may be prescribed, or on which the Provincial Government, the Board or the Assistant Commissioner concerned, as the case may be, may require him to report.

Rectification of defects and irregularities disclosed in audit and order of surcharge against trustee.

48. (1) The Provincial Government shall send to the Board a copy of every audit report relating to its accounts, and it shall be the duty of the Board to remedy any defects or irregularities pointed out by the auditor and report the same to the Provincial Government.

(2) The Board or the Assistant Commissioner shall send a copy of every audit report relating to the accounts of a math, temple or specific endowment, to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Board or the Assistant Commissioner, as the case may be.

(3) The Assistant Commissioner shall forward to the Board a copy of every audit report received by him under clause (c) of section 46 and the report, if any, of the trustee made under sub-section (2), together with such remarks as the Assistant Commissioner may wish to make thereon.

(4) If, on a consideration of the report of the auditor along with the report, if any, of the trustee, the Board thinks that the trustee was guilty of misappropriation or wilful waste of the funds of the institution or of gross neglect resulting in a loss to the institution, the Board may, after giving notice to the trustee to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee concerned to pay such amount personally within a specified time:

Provided that if in respect of any expenditure or dealing with trust property, the trustee had obtained the directions of the Board or of the Assistant Commissioner concerned and had acted in accordance with such directions, he shall not be held responsible.

(5) The Board shall forward a copy of the order under sub-section (4) with the reasons for the same, by registered post to the trustee concerned.

(6) The trustee aggrieved by such order may, within three months of the receipt of the order, appeal to the Provincial Government to modify or set aside the order and the Provincial Government may pass such orders thereon as they may deem fit.

(7) The order of the Provincial Government on an appeal under sub-section (6) shall be final and shall not be liable to be modified or cancelled in a Court.

(8) The sum specified the order of surcharge shall be paid within the time specified in such order, unless the trustee has appealed to the Provincial Government to modify or set aside the order and has obtained an order for stay.

(9) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(10) The Collector of the district in which is situated any property of the trustee from whom an amount by way of surcharge is recoverable, shall, on a requisition made by the President of the Board, recover such amount as if it were an arrear of land revenue and pay the same to the Board.

Audit of accounts of maths, temples, etc., for which schemes have been settled.

48-A. Notwithstanding any provisions to the contrary contained in any scheme settled or deemed to be settled under this Act, the audit of the accounts of every math, temple or specific endowment shall be made in accordance with the provisions of this Act.

Public officers to furnish copies of or extracts from certain documents.

48-B. All public officers having custody of any record, register, report or other document relating to a math or temple or any property thereof or a specific endowment shall furnish such copies of or extracts from the same as may be required by the Board or a Commissioner or an Assistant Commissioner."

Repeal of section 49, Madras Act II of 1927.

11. Section 49 of the said Act shall be omitted.

Amendment of section 52, Madras Act II of 1927.

12. In section 52 of the said Act, for the words "The trustee of a temple", the words "The trustee of a temple or a specific endowment attached thereto" shall be substituted.

Insertion of new section 53-B in Madras Act II of 1927.

13. After section 53-A of the said Act, the following section shall be inserted, namely:—

Application of sections 53 and 53-A to specific endowments.

"53-B. The provisions of sections 53 and 53-A shall, so far as may be, apply to any specific endowment attached to a temple."

Amendment of section 54, Madras Act II of 1927.

14. In sub-section (4) of section 54 of the said Act, the words "and shall not be liable to be modified or cancelled in a Court of Law" shall be added at the end.

Amendment of section 56, Madras Act II of 1927.

15. In sub-section (4) of section 56 of the said Act, the words "and shall not be liable to be modified or cancelled in a Court of Law" shall be added at the end.

Insertion of new section 56-A in Madras Act II of 1927.

16. After section 56 of the said Act, the following section shall be inserted, namely:—

Application of sections 55 and 56 to specific endowments.

"56-A. The provisions of sections 55 and 56 shall, so far as may be, apply to specific endowments attached to a temple.

Substitution of new section for section 57, Madras Act II of 1927.

17. For section 57 of the said Act, the following section shall be substituted, namely:—

Schemes for temples.

"57. (1) When the Board is satisfied either of its own motion or on the application of any person having interest that, in the interests of the proper administration of the endowments of a temple, a scheme of administration should be settled, the Board may, after consulting in the prescribed manner the trustee and the persons having interest, by order settle a scheme of administration for the endowments of the temple.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a temple.

(2) A scheme settled by the Board under sub-section (1) may contain provision for—

(*a*) fixing the number of non-hereditary trustees;

(*b*) removing any existing trustee or trustees, whether hereditary or non-hereditary;

(*c*) appointing a new trustee or trustees in addition to or in the place of any existing trustee or trustees, whether hereditary or non-hereditary:

Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment, as trustee, of the person next in succession who is qualified;

(*d*) associating one or more persons with the trustee or trustees or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowments connected with such temple;

(*e*) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary as may be fixed by the Board, to be paid out of the trust funds and defining the powers and duties of such officer;

(*f*) defining the powers and duties of the trustee or trustees;

(*g*) directing the appropriation of any surplus funds in accordance with the provisions of section 67.

(3) The Board may determine—

(*a*) what the properties of the temple are and append to the scheme a schedule containing a list of such properties:

Provided that such determination shall not affect persons who are in hostile possession of any of the said properties;

(*b*) what proportion of the endowed properties or interest therein shall be allocated to any particular object of the endowment.

(4) The Board may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (1) or direct the removal of such officer.

(5) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

(6) Every order of the Board settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner.

(7) The trustee or any person having interest may within six months of the date of such publication institute a suit in the Court to modify or set aside such order.

Subject to the result of such suit and subject to the provisions of sub-section (9), every order of the Board shall be final and binding on the trustee and all persons having interest.

(8) Pending the framing of a scheme, the Board may appoint a fit person to discharge all or any of the functions of a trustee and define his powers and duties.

(9) Any scheme of administration settled by a Court under this section or which under section 75 is deemed to be a scheme settled under this Act may, at any time for sufficient cause, be modified or cancelled by the Court on an application made by the Board or the trustee or any person having interest, but not otherwise.

Substitution of new sections for sections 59 and 60, Madras Act II of 1927.

18. For sections 59 and 60 of the said Act, the following sections shall be substituted, namely:—

Trustees to furnish accounts, etc., to the Board or Assistant Commissioner.

"59. The Board or the Assistant Commissioner may require the trustee of a temple or any specific endowment attached thereto or his agent to submit to the Board or to the Assistant Commissioner, as the case may be, such accounts, returns, reports or other information relating to the administration or management of the temple or the endowment in his charge, its funds, property or income or moneys connected therewith or the application thereof, at such time and in such manner as the Board or the Assistant Commissioner may require.

Inspection by President, Commissioner or Assistant Commissioner.

60. The President of the Board or any Commissioner or Assistant Commissioner in respect of his division or area may inspect all movable and immovable property belonging to and all records, correspondence, plans, accounts and other documents relating to any temple or specific endowment attached thereto and the trustee of such temple or endowment and all officers and servants working under him, his agent and any person having concern in the management or administration thereof shall afford to the President, the Commissioner or the Assistant Commissioner such assistance and facilities as may be reasonably required and produce them for inspection."

Amendment of heading in Chapter VI, Madras Act II of 1927.

19. In Chapter VI of the said Act, for the heading "*Maths and excepted temples*", the heading "*Maths*" shall be substituted.

Substitution of new sections for section 61, Madras Act II of 1927.

20. For section 61 of the said Act, the following sections shall be substituted, namely:—

Submission of budgets and annual accounts.

"61. (1) The trustee of every math and specific endowment attached to a math shall in each year submit to the Board before such date and in such form as the Board may require—

(*a*) a statement of the actual receipts and disbursements of the previous year; and

(*b*) a budget showing the probable receipts and disbursements of the following year.

(2) The budget of every math shall make adequate provision for the *dittam* or the scale of expenditure for the time being in force and the other customary expenses of the math and for the due discharge of all liabilities in respect of the debts binding on the math.

(3) Every such budget may, with any surplus which may be available after providing for the matters referred to in sub-section (2), make provision for such religious, educational or charitable purposes not inconsistent with the objects of the math as its trustee may deem fit.

(4) The Board may make such suggestions as it may think fit in regard to the various items in the budget including those relating to the surplus.

Appointment of manager and his functions.

61-A. (1) For the management of the secular affairs of a math, the trustee of the math shall, when required by the Board, appoint a competent person as manager and report the name of the person so appointed to the Board.

(2) The manager appointed under sub-section (1) shall in addition to the trustee be responsible for the due submission of the registers, accounts and budgets of the math, to the Board and also for the performance of other statutory duties imposed upon the trustee under this Act."

Amendment of section 62, Madras Act II of 1927.

21. In section 62 of the said Act—

(*i*) for the words "excepted temple", the words "a specific endowment attached to a math" shall be substituted; and

(*ii*) for the words "of such math or temple", the words "of such math or specific endowment" shall be substituted.

Substitution of new section for section 63, Madras Act II of 1927.

22. For section 63 of the said Act, the following section shall be substituted, namely:—

Schemes for maths.

"63. (1) If after making the inquiry referred to in section 62, the Board is satisfied that the trustee concerned has mismanaged the endowments of such math or has spent or alienated them for improper purposes, or that in the interests of the proper administration of such endowments, a scheme of administration should be settled, the Board may, after consulting in the prescribed manner the trustee and the persons having interest, by order settle a scheme of administration for the endowments connected with such math.

Explanation.—The power to settle a scheme under this sub-section shall be deemed to include a power to settle a scheme for any specific endowment or endowments attached to a math.

(2) A scheme settled by the Board under sub-section (1) may contain provision for—

(*a*) associating one or more persons with the trustee or trustees or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowments connected with such math: provided that such person or persons or the members of such body shall be chosen from persons having interest in such math;

(*b*) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary as may be fixed by the Board, to be paid out of the trust funds, and defining the powers and duties of such officer;

(*c*) defining the powers and duties of the trustee;

(*d*) directing the appropriation of any surplus funds in accordance with the provisions of section 67.

(3) The Board may determine what the properties of the math are and append to the scheme a schedule containing a list of such properties:

Provided that such determination shall not affect persons who are in hostile possession of any of the said properties.

(4) The Board may, for good and sufficient cause, suspend, remove or dismiss any executive officer appointed in pursuance of a scheme settled under sub-section (1) or direct the removal of such officer.

(5) The Board may at any time by order and in the manner provided in sub-section (1) modify or cancel a scheme settled under that sub-section.

(6) Every order of the Board settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner.

(7) The trustee or any person having interest may, within six months of the date of such publication, institute a suit in the Court to modify or set aside such order."

Amendment of section 64, Madras Act II of 1927.

23. In section 64 of the said Act, for the expression "sub-section (4)", the expression "sub-section (7)" shall be substituted.

Insertion of new section 64-A in Madras Act II of 1927.

24. After section 64 of the said Act, the following section shall be inserted, namely:—

Board to exercise powers under sections 59 and 60.

"64-A. In the case of maths and specific endowments connected therewith, the Board may, so far as may be, exercise the powers referred to in sections 59 and 60."

Amendment of section 65, Madras Act II of 1927.

25. In section 65 of the said Act, for the words "in a suit instituted", the words "on an application made" shall be substituted.

Amendment of section 65-A, Madras Act II of 1927.

26. In section 65-A of the said Act—

(i) for clause (*a*) of sub-section (1), the following clause shall be substituted, namely:—

"(*a*) Notwithstanding that a temple or specific endowment attached to a temple is governed by a scheme previously framed by the Board or settled by a Court, where the Board has reason to believe that the temple or endowment is being mismanaged and is satisfied that in the interests of the administration of the temple or endowment, it is necessary to take proceedings under this Chapter, the Board may, by a notice published in the prescribed manner, call upon the trustee and all other persons having interest in the temple or endowment to show cause why the temple or endowment should not be notified to be subject to the provisions of this Chapter";

(ii) in sub-section (3), after the words "the Provincial Government may", the words "on receipt of a report from the Board" shall be inserted;

(iii) for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) (a) If a Committee of the Board decides that the temple or endowment should be notified as aforesaid, the Board shall publish its decision in the Official Gazette.

(b) The trustee or any person having interest may appeal against such decision to the Board within two months from such publication and such appeal shall be heard and decided by the President and all the other Commissioners of the Board sitting together. If no such appeal is preferred or if such an appeal is preferred and dismissed, then the Provincial Government may, on receipt of a report from the Board, by notification published in the Official Gazette, declare the temple or endowment to be subject to the provisions of this Chapter.

(6) No suit or other legal proceedings shall lie to modify or set aside any notification issued or action taken under this section.

(7) The Provincial Government may, at any time, on an application made to them, modify or cancel a notification issued under this section."

Amendment of section 65-B, Madras Act II of 1927.

27. In section 65-B of the said Act, after the word "Court", the words "whether before or after the commencement of this Act" shall be inserted.

Amendment of section 65-E, Madras Act II of 1927.

28. In section 65-E of the said Act, for the expression "Sections 57, 62 and 63", the expression "Section 57" shall be substituted.

Amendment of section 66, Madras Act II of 1927.

29. In the proviso to section 66 of the said Act, for the words "the Board in the case of maths and excepted temples and the Assistant Commissioner in the case of other temples", the words "the Board" and for the words "the Board or the Assistant Commissioner may think fit", the words "it may think fit" shall be substituted.

Amendment of section 67, Madras Act II of 1927.

30. In sub-section (5) of section 67 of the said Act, for the words "in a suit instituted", the words "on an application made" shall be substituted.

Amendment of section 69, Madras Act II of 1927.

31. In section 69 of the said Act—

(i) sub-section (3) shall be renumbered as sub-section (4) and before the sub-section as so renumbered, the following sub-sections shall be inserted, namely:—

"(2) Every math, temple or specific endowment attached to a math or temple the annual income of which for the fasli year immediately preceding, as determined under sub-section (1), is not less than one thousand rupees shall pay annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Board may determine.

(3) All sums paid in pursuance of sub-section (2) shall be credited to a fund called "The Audit Fund" and shall be utilized only for the purpose of meeting the cost of auditing the accounts of the maths, temples and endowments referred to in sub-section (2), including the cost of any staff maintained for auditing such accounts";

(ii) in sub-section (4) as so renumbered, for the expression "payment referred to in sub-section (1)", the expression "payments referred to in sub-sections (1) and (2)" shall be substituted.

Substitution of new sections for section 70, Madras Act II of 1927.

32. For section 70 of the said Act, the following sections shall be substituted, namely:—

Assessment and recovery of costs, expenses and contributions.

"70. (1) The costs, expenses and contributions payable under sections 68 and 69 shall be assessed on and notified to the trustee of the math, temple or specific endowment concerned in the prescribed manner.

(2) (a) Such trustee may, within fifteen days from the date of the receipt of such notice or within such further time as may be granted by the Board, prefer in writing his objection thereto, if any, to the President of the Board. Such objection may relate either to his liability to pay or to the amount specified in the notice. The President shall consider such objection and give his decision confirming, withdrawing or modifying his original notice. The amount of assessment as stated in the original notice or as fixed by the President on objection, as the case may be, shall be final, and shall not be liable to be modified or cancelled in a Court of Law.

(b) Within one month of the date of receipt of the notice of assessment or when objection has been preferred, within one month from the date of the decision of the President, or within such further time as may be granted by him, such trustee shall pay the amount specified in the original notice or the amount as fixed by the President on objection.

(3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the math, temple or endowment is situated shall, on requisition made to him in the prescribed manner by the President and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue and pay the same to the President.

(4) (a) On receipt of requisition under sub-section (3), the Collector shall issue a notice to the trustee concerned—

(i) requiring him, within fifteen days from the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and

(ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue.

(b) If, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice, with the charges of collection, as if it were an arrear of land revenue.

(5) The Collector shall, on receipt of a requisition under sub-section (3), withhold the amount mentioned therein out of the tasdik or any other allowance payable by the Provincial Government to the math or temple concerned and pay the said amount to the President of the Board, but where the tasdik or any other allowance is insufficient for the purpose, the Collector shall withhold and pay as aforesaid, the amount available, and recover the balance as if it were an arrear of land revenue.

(6) Places of worship including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the math or temple as, in accordance with the usage of the math or temple concerned, are necessary for purposes of worship or ceremonial processions shall not be liable to be proceeded against in pursuance of sub-sections (3), (4) and (5).

(7) Instead of selling the property after attachment thereof under the provisions of the Madras Revenue Recovery Act, 1864, it shall be open to the Collector at the instance of the Board, to appoint a Receiver for the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realized. The cost of expenses incurred and the remuneration, if any, paid to the Receiver shall be paid out of the income of the math, temple or specific endowment concerned.

(8) No suit, prosecution or other legal proceeding shall be entertained in any Court of Law against the Crown or any servant of the Crown for anything in good faith done or intended to be done in pursuance of this section.

Board not to levy contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under section 70.

70-A. (1) After the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1946, it shall not be competent for the Board to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under section 70.

(2) Nothing in this section shall affect any levy of contribution already made or moneys already collected by the Board before the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1946".

Amendment of section 71, Madras Act II of 1927.

33. In sub-section (2) of section 71 of the said Act—

(a) in clause (i), after the words "staff of auditors", the words "the method of their recruitment, their qualifications" shall be inserted;

(b) in clause (k), for the words "Assistant Commissioners of endowments", the words "maths, temples and specific endowments" shall be substituted and the word "and" occurring at the end shall be omitted;

(c) after clause (l), the following clauses shall be added, namely:—

"(m) the preservation, maintenance, management and improvement of the properties of the endowments and the temple buildings;

(n) the inspection and supervision of the properties of the endowments and the temple buildings by such persons as the Provincial Government may direct, the reports to be submitted by such persons and the fees leviable for such inspection, supervision and report;

(o) the preservation of the images in temples."

Amendment of section 73, Madras Act II of 1927.

34. In section 73 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Board, or any person having interest, and having obtained the consent of the Board, may institute a suit in the Court to obtain a decree for any of the following reliefs:—

(a) appointing or removing a trustee of a math, temple, or specific endowment attached to a math or temple;

(b) vesting any property in a trustee of a math, temple or specific endowment attached to a math or temple;

(c) declaring what proportion of the endowed property of a math, temple or specific endowment attached to a math or temple or of the interest therein shall be allocated to any particular object of the endowment;

(d) directing accounts and inquiries in respect of the administration or management of a math, temple or specific endowment attached to a math or temple;

(e) granting such further or other reliefs as the nature of the case may require.";

(ii) for sub-section (3), the following sub-sections shall be substituted, namely:—

"(3) Sections 92 and 93 and rule 8 of Order I of the First Schedule of the Code of Civil Procedure, 1908, shall have no application to any suit claiming any of the reliefs provided in this Act in respect of the administration or management of a temple, math or specific endowment.

(4) No suit or other legal proceeding claiming any relief provided in this Act in respect of such administration or management shall be instituted except under and in conformity with the provisions of this Act.

(5) Nothing contained in this section shall affect the right of a trustee of a temple, math or specific endowment to institute a suit to enforce the pecuniary or proprietary right of the institution of which he is the trustee or the rights of such institution as a beneficiary."

Insertion of new section 75-A in Madras Act II of 1927.

35. After section 75 of the said Act, the following section shall be inserted, namely:—

Board to exercise powers of administration vested by certain schemes.

"75-A. In any scheme settled by a Court, whether before or after the passing of this Act, under section 92 of the Code of Civil Procedure, 1908, unless there is anything repugnant in the subject or context, all powers of administration vested by such scheme in any Court, Judge, committee or other authority or person shall be deemed to have been vested in the Board and the Board shall, notwithstanding any provision of this Act, exercise such powers in accordance with the said scheme."

Amendment of section 76, Madras Act II of 1927.

36. In section 76 of the said Act—

(i) for the words "math or temple" wherever they occur, the words "math, temple or specific endowment" shall be substituted;

(ii) in sub-section (1), for the words "by the Board in the case of maths and excepted temples and by the Assistant Commissioner in the case of other temples", the words "by the Board" shall be substituted; and

(iii) in sub-sections (2) and (3), the words "or Assistant Commissioner" shall be omitted.

Amendment of section 77, Madras Act II of 1927.

37. To sub-section (1) of section 77 of the said Act, the following paragraph shall be added, namely:—

"If any dispute arises as to whether an institution or endowment is one to which sub-section (1) applies, such dispute shall be decided by the Board."

Substitution of new section for section 78, Madras Act II of 1927.

38. For section 78 of the said Act, the following section shall be substituted, namely:—

Putting trustee in possession.

"78. Where a person has been appointed as trustee or executive officer of a math, temple or specific endowment connected therewith or has been appointed to discharge the functions of a trustee in accordance with the provisions of this Act, and such person is resisted in or prevented from obtaining possession of the math, temple or specific endowment concerned or of the records, accounts and properties thereof by a trustee, office-holder or servant of the math, temple or specific endowment who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant other than a person claiming in good faith to be in possession on his own account or on account of some person not being the said trustee, office-holder or servant, the Court shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by the Board in such

manner as may be prescribed, setting forth that the property in question belongs to the math, temple or specific endowment concerned, direct delivery to the person appointed as aforesaid of the possession of such math, temple or specific endowment or the records, accounts and properties thereof, as the case may be:

Provided that nothing contained in this section shall bar the institution of a suit by any person aggrieved by an order under this section for establishing his title to the said property.

Explanation.—A person claiming under an alienation contrary to the provisions of section 76 shall not be regarded as a person claiming in good faith within the meaning of this section."

Insertion of new section 79-A in Madras Act II of 1927.

39. After section 79 of the said Act, the following section shall be inserted, namely:—

Settlement of dispute in regard to matters mentioned in section 79.

"79-A. (1) If any dispute arises in regard to any of the matters mentioned in section 79, such dispute shall be decided by the Board.

(2) The power conferred by this section shall be exercised by a Committee of the Board consisting of not less than two Commissioners of whom the President shall be one.

(3) The order of the Board shall be final in all cases where the dispute relates to mere ritual or religious observances or honours and shall not be liable to be modified or set aside in a Court of Law. In all other cases, any person affected by the order of the Board may apply to the Court within three months from the date of the order to modify or set aside the same but subject to the result of such application, the order of the Board shall be final."

Substitution of new section for section 84, Madras Act II of 1927.

40. For section 84 of the said Act, the following section shall be substituted, namely:—

Settlement of dispute as to whether an institution is a math or temple, etc.

"84. (1) If any dispute arises as to—

(*a*) whether an institution is a math or temple as defined in this Act,

(*b*) whether a trustee is a hereditary trustee as defined in this Act or not, or

(*c*) whether any property or money endowed is a specific endowment as defined in this Act or not,

such dispute shall be decided by the Board and no Court in the exercise of its original jurisdiction shall take cognizance of any such dispute.

(2) Any person affected by a decision under sub-section (1) may, within six months, apply to the Court to modify or set aside such decision.

(3) From every order of a District Judge, on an application under sub-section (2), an appeal shall lie to the High Court within three months from the date of the order.

(4) Subject to the result of an application under sub-section (2) or of an appeal under sub-section (3), the decision of the Board shall be final."

Addition of section 85 to Madras Act II of 1927.

41. After section 84 of the said Act, the following section shall be added, namely:—

Penalty for refusal by trustee, etc., to comply with certain provisions of the Act.

"85. (1) If any trustee, executive officer or other person in whom the administration of a math, temple or specific endowment is vested—

(*a*) wilfully refuses, neglects or fails to comply with the provisions of section 38, section 39 or section 39-A, or

(*b*) wilfully refuses, neglects or fails to furnish such accounts, returns, reports or other information relating to the administration or management of the math, temple or specific endowment or its funds, property or income or the application thereof, at such time and in such manner as the Board or Assistant Commissioner may require, or

(*c*) wilfully refuses or causes obstruction to the inspection by the President or Commissioner of the Board or by an Assistant Commissioner, of the movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, the math, temple or specific endowment or fails to produce them for inspection, he shall, unless he shows reasonable cause to the satisfaction of the Provincial Government,

be liable to pay to the Board such penalty not exceeding one hundred rupees as may be determined by the Provincial Government.

(2) The order of the Provincial Government imposing a penalty under sub-section (1) shall be final and shall not be liable to be modified or cancelled in a Court of Law.

(3) The penalty shall be paid within the time fixed by the Provincial Government by the person against whom the order is made, from his own funds and not from the funds of the math, temple or specific endowment concerned.

(4) If the penalty is not paid within the time fixed or within such further time as may be granted by the Provincial Government, the Collector of the district in which any property of the person against whom an order has been made is situated shall, on a requisition made to him by the President of the Board, recover the amount, as if it were an arrear of land revenue and pay the same to the Board.

(5) No suit, prosecution or other legal proceeding shall be entertained in any Court against the Crown or any servant of the Crown for anything in good faith done or intended to be done in pursuance of this section."

Substitution of new Schedule for Schedule II, Madras Act II of 1927.

42. For Schedule II to the said Act, the following Schedule shall be substituted, namely:—

"SCHEDULE II.

(*See* section 81.)

Section. (1)	Description of the document. (2)	Proper fee. (3)
	I.—Suits.	Rs.
55 (4)	Suit to modify or set aside an order of the Assistant Commissioner fixing the *dittam*.	50
57 (7)	Suit to modify or set aside a scheme settled by the Board for a temple or specific endowment attached thereto.	50
63 (7)	Suit to modify or set aside a scheme settled by the Board for a math or specific endowment attached thereto.	50
67 (4)	Suit to modify or set aside order of the Board directing diversion of surplus funds	50
73 (1)	Suit for appointment or removal of trustee of math, temple or specific endowment, for accounts, vesting properties, etc.	50
	II.—Applications to Court.	
44	Application by trustee for recovery of the amount from the person in possession or by the person in possession from the person responsible in law.	The fee leviable on a plaint for the amount claimed under the Madras Court Fees (Amendment) Act, 1922.
53-A (4)	Application by a hereditary trustee against an order of the Board suspending, removing or dismissing him.	25
57 (9)	Application to modify or cancel a scheme for a temple or specific endowment attached thereto.	25
65	Application to modify or cancel a scheme for a math or specific endowment attached thereto.	25
67 (5)	Application to modify or cancel court's decision in a suit under section 67 (4).	25
76 (2)	Application by a trustee or person having interest for modifying or cancelling an order sanctioning an exchange, sale, mortgage or lease for a term exceeding five years.	15
77 (2)	Application to modify or set aside an order allocating any endowment, property or income therefrom to religious and secular purposes.	20
78	Application for delivery of possession	2

Section. (1)	Description of the document. (2)	Proper fee. (3)
79-A (3)	Application to modify or set aside an order of the Board under section 79 other than an order as to ritual or religious observances or honours.	25
84 (2)	Application to modify or set aside the Board's decision under sub-section (1).	15
	III.—Appeal to High Court.	
84 (3)	Appeal against an order of the District Judge under sub-section (2).	15
	IV.—Appeals to the Provincial Government, Board and Assistant Commissioner.	
43 (2)	Appeal by any office-holder or servant to the Assistant Commissioner against an order of punishment passed by a trustee.	2
43 (3)	Further appeal to the Board by a hereditary office-holder or servant against an order of the Assistant Commissioner on appeal under sub-section (2).	2
48 (7)	Appeal to the Provincial Government against an order of surcharge.	20
53 (3)	Appeal to the Board against an order of suspension, removal or dismissal by the Assistant Commissioner, of a non-hereditary trustee.	25
55 (4)	Appeal to the Board by a trustee or person having interest against the order of an Assistant Commissioner under sub-section (3) fixing standard scales of expenditure.	20
56 (4)	Appeal to the Board against the order of the Assistant Commissioner, under sub-section (3).	10
	V.—Applications to Board.	
57	Application for settlement of a scheme for a temple or specific endowment attached thereto.	50
62	Application by not less than 20 persons for settlement of a scheme for a math or specific endowment attached thereto.	50."

Transitional provisions.

43. The Committee appointed under the Religious Endowments Act, 1863, for the Presidency town and whether actually or merely deemed to be in existence at the commencement of this Act is hereby abolished with effect from such commencement.

44. Any reference to the said Committee or the president, vice-president or members thereof contained in any enactment in force in the Presidency town or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the Presidency town shall, after the commencement of this Act, be construed as a reference to the Assistant Commissioner concerned.

Any reference to a temple committee or the president, vice-president or member thereof contained in any enactment in force in the Province or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the said Province shall, after the commencement of this Act, be construed as a reference to the Assistant Commissioner concerned:

Provided that it shall be open to the Board to direct that any such reference shall be construed as a reference to itself or to such other authority or person as may be specified by it.

45. The Board may pass such orders as it thinks fit as to—

(a) the transfer or disposal otherwise of all property, rights, interests, and assets of whatever kind owned by, or vested in, or held in trust by or for, or used, enjoyed or possessed by the said Committee, and

(b) the transfer or discharge of the liabilities of the said Committee.

46. All proceedings pending before the said Committee at the commencement of this Act, may, in so far as they are not inconsistent with the provisions of the said Act as amended by this Act, be continued under the said Act as so amended, by the Assistant Commissioner concerned or, if the Board so directs in any case or class of cases, by the Board.

47. All proceedings taken by, or on behalf of, or against, the said Committee and pending at the commencement of this Act, may, thereafter, be continued by or against the Board, subject to the provisions of, and in so far as they are not inconsistent with, the said Act, as amended by this Act.

48. Any order passed, action taken or thing done by the said Committee before the commencement of this Act, shall, subject to the provisions of the said Act, as amended by this Act and to such directions as the Board may give in this behalf, be deemed to have been taken by the Assistant Commissioner concerned or the Board, as the case may be, unless and until the same is superseded by such Assistant Commissioner or the Board.

49. Every non-hereditary trustee of a temple in the Presidency town lawfully holding office on the date of the commencement of this Act shall be deemed to have been duly appointed under the said Act as amended by this Act, on such date but shall be entitled to hold office only for one year from such date.

50. Contributions payable under sub-section (1) of section 69 of the said Act as amended by this Act, by maths, temples and specific endowments in the Presidency town and the cost of auditing payable under sub-section (2) of section 69 of the said Act as amended by this Act by maths, temples and specific endowments in the Province shall be levied for the fasli year commencing on the 1st day of July, 1945, as if this Act had come into force on the 1st day of July, 1945.

51. All proceedings under section 84 of the said Act relating to disputes as to whether a temple is an excepted temple or not and pending before the Board or in Courts at the commencement of this Act shall stand abated and shall not be proceeded with.

52. If any difficulty arises in giving effect to the provisions of this Act or of the said Act as amended by this Act, the Provincial Government as occasion may require may by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1946.

ACT No. XI OF 1946.

[9th April, 1946.

An Act further to amend the Madras Local Boards Act, 1920.

WHEREAS it is expedient to make provision in a separate enactment for the administration of village affairs by panchayats and in consequence thereof to restrict the application of the Madras Local Boards Act, 1920, to district boards;

AND WHEREAS it is also expedient to amend the Act aforesaid for certain other purposes;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS LOCAL BOARDS (AMENDMENT) ACT, 1946.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Fort St. George Gazette*, appoint.

General amendments to Madras Act XIV of 1920.

2. In the Madras Local Boards Act, 1920 (hereinafter referred to as the said Act), including the Long Title, the preamble and the Schedules thereto, for the words in the first column of the table below, the words in the corresponding entry in the second column thereof shall be substituted except as otherwise expressly provided in this Act:—

(1)	(2)
local board.	district board.
local boards.	district boards.
local boards.	district boards.
local boards.	district boards.
panchayat.	district board.
panchayats.	district boards.
local fund.	district fund.
village fund.	district fund.

Amendment of section 3, Madras Act XIV of 1920.

3. In section 3 of the said Act—

(*i*) clause (3) shall be omitted;

(*ii*) in clause (5-A), for the words "on the occurrence of a casual vacancy", the words "to fill a casual vacancy" shall be substituted;

(*iii*) clauses (7-D) and (8) shall be omitted and clauses (7-B) and (7-C) shall be renumbered as clauses (7-C) and (7-D) respectively and the following shall be inserted as clause (7-B), namely:—

'Election authority.'

"(7-B) 'election authority' means such authority, not being the president or vice-president or a member of the district board, as may be prescribed;";

(*iv*) for clause (7-D) as so renumbered, the following clause shall be substituted, namely:—

'Executive authority.'

"(7-D) 'executive acthority' means the president;";

(*v*) for clauses (11) and (12), the following clause shall be substituted, namely:—

'Non-panchayat area.'

"(11) 'non-panchayat area' means any area which is not comprised within the jurisdiction of a panchayat constituted under the Madras Village Panchayats Act, 1946;";

(*vi*) in clause (13-A), for the words "on the occurrence of an ordinary vacancy", the words "to fill an ordinary vacancy" shall be substituted;

(*vii*) for clauses (15-A) and (15-B), the following clauses shall be substituted, namely:—

'Panchayat'.

"(15-A) 'panchayat' means a panchayat constituted under the Madras Village Panchayats Act, 1946;

'Panchayat area.'

(15-B) 'panchayat area' means the area comprised within the jurisdiction of a panchayat constituted under the Madras Village Panchayats Act, 1946;";

(*viii*) clauses (19-B), (19-C) and (23) shall be omitted.

Amendment of heading of Chapter II, Madras Act XIV, 1920.

4. For the heading of Chapter II of the said Act, the heading "Districts" shall be substituted.

Repeal of section 5, Madras Act XIV of 1920.

5. Section 5 of the said Act shall be omitted.

Amendment of section 6, Madras Act XIV of 1920.

6. In section 6 of the said Act—

(*i*) in sub-section (1), the words "and for each village, a panchayat" shall be omitted;

(*ii*) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Subject to the provisions of this Act, the local administration of a district shall vest in the district board constituted therefor, but the board shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or to other authorities.";

(*iii*) in sub-section (3), the words "or village" and the words and figure "or 5, as the case may be,' shall be omitted.

Substitution of new section for section 7 of Madras Act XIV of 1920.

7. For section 7 of the said Act, the following section shall be substiteted, namely:—

Strength of district boards.

"7. The total number of members of a district board shall not exceed 52 or be less than 24."

Amendment of section 9, Madras Act XIV of 1920.

8. In section 9 of the said Act—

(*i*) sub-section (2) shall be omitted, and sub-sections (3) to (6) renumbered as sub-sections (2) to (5) respectively;

(*ii*) in sub-section (2) as so renumbered, the word, figure and brackets "or (3)" shall be omitted;

(*iii*) in sub-section (5) as so renumbered, for the words, figures and brackets "sub-sections (1) and (2)", the word, figure and brackets "sub-section (1)" shall be substituted.

Amendment of section 10, Madras Act XIV of 1920.

9. In section 10 of the said Act, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

"(2) The total number of members of any district board as notified under sub-section (1) may be altered—

(a) by the Provincial Government by notification, or

(b) subject to the approval of the Provincial Government, by the district board by resolution supported by not less than three-fourths of the members present at a meeting specially convened in that behalf:

Provided that where a notification or resolution under this sub-section entails a material alteration in the existing division of the district into circles, the Provincial Government shall direct that such notification or resolution shall take effect from the date of the next ordinary elections.

(3) The notifications referred to in sub-sections (1) and (2) (a) and the resolution referred to in sub-section (2) (b) shall be published in the prescribed manner."

Amendment of sections 11 and 11-A, Madras Act XIV of 1920.

10. In sections 11 and 11-A of the said Act, for the words "prescribed authority" wherever they occur, the words "election authority" shall be substituted.

Amendment of section 15, Madras Act XIV of 1920.

11. In clause (b) of sub-sections (1) and (2) of section 15 of the said Act, for the words "any other local board", the words "any panchayat" shall be substituted.

Amendment of section 19, Madras Act XIV of 1920.

12. In section 19 of the said Act, the words "or appointment" and "temporary president" shall be omitted.

Repeal of sections 21 and 21-C, Madras Act XIV of 1920, etc.

13. (1) Sections 21 and 21-C of the said Act shall be omitted and sections 21-A, 21-B and 21-D thereof shall be renumbered as sections 21, 21-A and 21-B respectively.

(2) In section 21-B as so renumbered, the brackets and figure "(1)" and clauses (2) and (3) shall be omitted.

Insertion of new section 22-A in Madras Act XIV of 1920 and renumbering of section 22-A as section 22-B.

14. (1) Section 22-A of the said Act shall be renumbered as section 22-B and the following shall be inserted as section 22-A, namely:—

Power of executive authority to incur petty contingent expenditure.

"22-A. The executive authority may, without the sanction of the district board, incur petty contingent expenditure incidental to the administration of the board, not exceeding twenty-five rupees in each case:

Provided that—

(a) provision to meet the expenditure is available under the relevant head of account in the budget framed by the district board, with the modifications, if any, made therein by the Provincial Government; and

(b) the executive authority shall report any expenditure incurred under this section and the reasons therefor to the district board at its next meeting."

Amendment of section 22-B, Madras Act XIV of 1920.

(2) In section 22-B as so renumbered—

(i) clause (b) of sub-section (2) shall be omitted and clause (a) thereof shall be renumbered as sub-section (2);

(ii) in sub-section (3), the words "in the case of district boards and of not less than five clear days in the case of panchayats" shall be omitted;

(iii) sub-section (4) shall be omitted.

Amendment of section 23, Madras Act XIV of 1920.

15. In section 23 of the said Act—

(i) in sub-sections (1) and (3), the words "where he is also the executive authority" shall be omitted;

(ii) in sub-section (2), for the words "including where he is also the executive authority his functions as such", the words "including his functions as executive authority" shall be substituted;

(iii) in the proviso to the same sub-section, after the words "president's functions", the words "including his functions as executive authority" shall be inserted;

(iv) for clause (iii) of the proviso to sub-section (3), the following clause shall be substituted, namely:—

"(iii) every order made under this sub-section shall be communicated to the board at its next meeting.";

(v) for sub-section (4) the following sub-section shall be substituted, namely:—

"(4) Subject to any restrictions that the district board may impose, the president may by an order in writing delegate any of his executive functions to any member, officer or servant of the board or to any servant of the Crown."

Repeal of section 24, Madras Act XIV of 1920.

16. Section 24 of the said Act shall be omitted.

Amendment of section 26, Madras Act XIV of 1920.

17. In sub-section (1) of section 26 of the said Act, for the words "within the local board area", the words "within the district" shall be substituted.

Amendment of section 27, Madras Act XIV of 1920.

18. In sub-section (2) of section 27 of the said Act, for the portion beginning with the words "refer the question" and ending with the words "be final", the following words shall be substituted, namely:—

"refer the question to the district collector whose decision shall be final."

Amendment of section 27-A, Madras Act XIV of 1920.

19. In section 27-A of the said Act—

(i) in sub-section (1), clause (ii) shall be omitted and clauses (iii) and (iv) shall be renumbered as clauses (ii) and (iii) respectively;

(ii) in sub-section (2), for the words "four standing committees referred to", the words "three standing committees referred to" shall be substituted;

(iii) in sub-section (3)—

(a) the second proviso to clause (a) shall be omitted;

(b) the words "except in the case of the standing committee for rural development" in clause (b) shall be omitted.

Repeal of section 33, Madras Act XIV of 1920.

20. Section 33 of the said Act shall be omitted.

Substitution of new section for section 36 of Madras Act XIV of 1920.

21. For section 36 of the said Act, the following section shall be substituted, namely:—

Submission of annual reports.

"36. (1) As soon as may be after the first day of April every year and not later than such date as may be fixed by the Provincial Government, every district board shall submit to the Provincial Government, a report on its administration during the preceding year in such form and with such details as the Provincial Government may direct.

(2) The executive authority shall prepare the report; the district board shall consider the report and submit it to the Provincial Government with its resolutions thereon, if any.

(3) The report and the resolutions thereon, if any, shall be published in such manner as the Provincial Government may direct."

Amendment of section 37, Madras Act XIV of 1920.

22. In section 37 of the said Act, the figure and brackets "(1)" at the commencement shall be omitted.

Amendment of section 37-B, Madras Act XIV of 1920.

23. In section 37-B of the said Act, the words "executive authorities" shall be omitted.

Repeal of sections 37-D and 42, Madras Act XIV of 1920.

24. Sections 37-D and 42 of the said Act shall be omitted.

Amendment of section 41, Madras Act XIV of 1920.

25. In sub-section (1) of section 41 of the said Act, the words "or executive authority" shall be omitted and after the words "any other Act", the words "including in the case of its president any of his duties as executive authority" shall be inserted.

Amendment of section 43, Madras Act XIV of 1920.

26. In sub-section (1) of section 43 of the said Act, the words "where he is also the executive authority" shall be omitted.

Amendment of section 45, Madras Act XIV of 1920.

27. In section 45 of the said Act—

(i) in sub-section (1-A), the words "and to the district board in the case of a panchayat" and the words "or boards" in both the places where they occur shall be omitted;

(ii) in sub-section (2-A), for the words "in the same district", the words and figures "in that one of the three groups of districts as divided by the Madras Local Boards (Amendment) Act, 1935, to which the district belongs" shall be substituted.

(iii) in sub-section (3), for the words "including where the president is also the executive authority his powers and duties as such", the words "including his powers and duties as executive authority" shall be substituted.

Amendment of section 45-A, Madras Act XIV of 1920.

28. In section 45-A of the said Act—

(i) in sub-section (1), the words "in the case of a district board and one year in the case of a panchayat" shall be omitted;

(ii) in sub-section (4), the words and figure "or in the case of a panchayat, notwithstanding anything contained in this Act, exclude the area of the panchayat from the opera-

tion of this Act or cancel the notification issued under section 5 declaring such area to be a village'' shall be omitted;

(iii) in sub-section (5), for the words ''including where the president is also the executive authority his powers and duties as such'', the words ''including his powers and duties as executive authority'' shall be substituted;

(iv) in sub-section (7), for the words ''in the same district'', the words and figures ''in that one of the three groups of districts as divided by the Madras Local Boards (Amendment) Act, 1935, to which the district belongs shall be substituted.

Amendment of section 46, Madras Act XIV of 1920.

29. Sub-section (2) of section 46 of the said Act shall be omitted and sub-section (1) thereof renumbered as section 46.

Amendment of section 47, Madras Act XIV of 1920.

30. In sub-section (5) of section 47 of the said Act, for the words ''prescribed authority'', the words ''election authority'' shall be substituted.

Repeal of section 49, Madras Act XIV of 1920.

31. Section 49 of the said Act shall be omitted.

Amendment of section 51, Madras Act XIV of 1920.

32. In section 51 of the said Act—

(i) in sub-section (1), for the words and brackets ''the area of the local board (hereinafter in this section referred to as 'local area')'' the words ''a district'' shall be substituted;

(ii) in Explanation (1) to the same sub-section, for the words ''local area'' wherever they occur, the word ''district'' shall be substituted;

(iii) in sub-section (2), for the words ''local area'' wherever they occur, the word ''district'' and for the words ''prescribed authority'', the words ''election authority'' shall be substituted;

(iv) in sub-section (3), the words ''and when a village has been divided into wards the electoral roll for the panchayat shall be divided into separate parts for each ward'' shall be omitted;

(v) clause (b) of sub-section (4) shall be omitted and clause (a) thereof shall be renumbered as sub-section (4); and in the sub-section as so renumbered, for the words ''prescribed authority'', the words ''election authority'' shall be substituted.

Amendment of section 56, Madras Act XIV of 1920.

33. In sub-section (1) of section 56 of the said Act—

(i) for clause (g), the following clause shall be substituted, namely:—

''(g) ceases to reside in the district or in a municipality (including the City of Madras) or a cantonment, situated within three miles of the district;''

(ii) in clause (h), after the proviso, the following proviso shall be inserted, namely:—

''Provided further that if two or more meetings are held on the same day, they shall not be treated as consecutive meetings for the purposes of this clause.''

Amendment of section 57, Madras Act XIV of 1920.

34. In sub-section (1) of section 57 of the said Act, before the words ''shall apply to the district judge'', the words ''or on a direction from the Provincial Government,'' shall be inserted.

Amendment of section 60, Madras Act XIV of 1920.

35. In section 60 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

''(1) All public roads in any district which are classed as district roads and all public roads in non-panchayat areas in the district shall vest in the district board'';

(ii) in sub-section (2), after the words ''a public road'', the words, figure and brackets ''which vests in a district board under sub-section (1)'' shall be inserted; for the words ''any public road'', the words ''any such road'' shall be substituted; and the words ''in which the public road vests'' shall be omitted.

Amendment of section 62, Madras Act XIV of 1920.

36. In section 62 of the said Act, for the words ''vested in a local board'', the words ''vested in itself'' and for the words ''other local board'', the word ''panchayat'' shall be substituted.

Amendment of section 65, Madras Act XIV of 1920.

37. In section 65 of the said Act, the words ''or a collector or any private person or body of persons'' shall be omitted, and the word ''panchayat'' wherever it occurs shall be retained unaltered.

Repeal of sections 65-A and 65-B Madras Act XIV of 1920.

38. Sections 65-A and 65-B of the said Act shall be omitted.

Amendment of section 68, Madras Act XIV of 1920.

39. In section 68 of the said Act—

(i) in sub-section (1), for the words "a post of district health officer and one or more posts of district panchayat officer", the words "and one or more posts of district health officer" shall be substituted;

(ii) in the proviso to sub-section (3), for the words "district health officer or district panchayat officer", the words "or district health officer" shall be substituted.

Amendment of section 69, Madras Act XIV of 1920.

40. In sub-section (1) of section 69 of the said Act, for the words "district health officer or district panchayat officer", the words "or district health officer" shall be substituted.

Repeal of section 69-B, Madras Act XIV of 1920.

41. Section 69-B of the said Act shall be omitted.

Amendment of section 69-C, Madras Act XIV of 1920.

42. In sub-section (1) of section 69-C of the said Act, the words "or panchayat" shall be omitted.

Amendment of section 70, Madras Act XIV of 1920.

43. In section 70 of the said Act, for the words "the district health officer and the district panchayat officer", the words "and the district health officer" shall be substituted.

Amendment of section 70-A, Madras Act XIV of 1920.

44. In sub-section (1) of section 70-A of the said Act—

(i) for the words and figures "or in the Madras District Municipalities Act, 1920", the words and figures "the Madras District Municipalities Act, 1920, or the Madras Village Panchayats Act, 1946" shall be substituted;

(ii) after the words and figures "under the Madras District Municipalities Act, 1920," the words and figures "or of any panchayat constituted under the Madras Village Panchayats Act, 1946, shall be interested;

(iii) for the proviso, the following proviso shall be substituted, namely:—

"Provided that no such transfer shall be made except after consulting the district board, and the other district board, the municipal council or the executive authority of the panchayat, as the case may be."

Amendment of section 71, Madras Act XIV of 1920.

45. Sub-section (2) of section 71 of the said Act shall be omitted and sub-section (1) thereof shall be renumbered as section 71; and in the opening paragraph of the section as so renumbered, the words "and the staff of all panchayats in the district" shall be omitted.

Amendment of section 72, Madras Act XIV of 1920.

46. In section 72 of the said Act, for the words "the district health officer or the district panchayat officer", the words "or the district health officer" shall be substituted.

Amendment of section 73, Madras Act XIV of 1920.

47. Sub-section (2) of section 73 of the said Act shall be omitted and sub-section (1) thereof shall be renumbered as section 73, and in the section as so renumbered, for the words "the district health officer and the district panchayat officer", the words "and the district health officer" shall be substituted.

Amendment of section 73-B, Madras Act XIV of 1920.

48. In section 73-B of the said Act, the words, figures and letter "and of any person appointed under section 69-B" shall be omitted.

Amendment of section 74-A, Madras Act XIV of 1920.

49. In section 74-A of the said Act—

(i) in sub-section (1), for the words "local fund service", the words "separate service" shall be substituted.

(ii) in sub-section (2), the words "local fund" shall be omitted.

Amendment of section 75, Madras Act XIV of 1920.

50. In section 75 of the said Act—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) A district board may by a resolution determine that a profession tax shall be levied in all non-panchayat areas in the district or in any non-panchayat area specified in the resolution";

(ii) sub-section (2) shall be omitted and sub-sections (3) and (4) shall be renumbered as sub-sections (2) and (3) respectively;

(iii) in sub-section (2) as so renumbered, for the word "taxes" in clause (a), the words "the profession tax" shall be substituted;

(iv) in the same sub-section, in clause (b), for the words "existing tax" and "a tax", the words "existing profession tax" and "a profession tax" shall respectively be substituted, and for the words "in the case of local boards which have an outstanding loan", the words "if the district board has an outstanding loan" shall be substituted;

(v) in sub-section (3) as so renumbered, the words, figure and brackets "or a notification under sub-section (2)" and the words "or notification" and "or panchayat, as the case may be" shall be omitted.

Amendment of section 77, Madras Act XIV of 1920.

51. In section 77 of the said Act, sub-section (2) shall be omitted; clauses (a) and (b) of sub-section (1) shall be renumbered as sub-sections (1) and (2) respectively; and in sub-section (2) as so renumbered, for the expression "clause (a)", the expression "sub-section (1)" shall be substituted.

Insertion of new section 92 in Madras Act XIV of 1920.

52. After section 91 of the said Act, the following section shall be inserted, namely:—

Apportionment of land-cess.

"92. The proceeds of the land-cess shall be credited to the district fund:

Provided that the cess collected in any panchayat area shall be distributed as follows:—

(a) three-fourths of the cess shall be credited to the district fund, and

(b) one-fourth of the cess shall be credited to the panchayat fund."

Amendment of sections 93 and 94-A, Madras Act XIV of 1920.

53. In sub-section (1) of section 93 and 94-A of the said Act, for the words "local area" wherever they occur, the words "non-panchayat area" shall be substituted.

Repeal of section 95, Madras Act XIV of 1920.

54. Section 95 of the said Act shall be omitted.

Repeal of sections 98 to 103 and the heading thereto and insertion of new section 98 in Madras Act XIV of 1920.

55. Sections 98 to 103 of the said Act and the heading thereto shall be omitted; and after section 97 of the said Act, the following shall be inserted, namely:—

Requisition on employers or their representatives to furnish list.

"98. The executive authority of the district board may by notice require any employer or the head or secretary or manager of any public or private office, hotel, boarding-house or club or of a firm or company—

(a) to furnish within a specified time a list in writing of the names of all persons employed by such employer or by such office, hotel, boarding-house, club, firm or company as officers, servants, dubashes, agents, suppliers or contractors, with a statement of the salary or income of such employed persons, and

(b) to furnish particulars in regard to any company of which such employer, head, secretary or manager, as the case may be, is the agent."

Amendment of section 110, Madras Act XIV of 1920.

56. In section 110 of the said Act—

(i) in sub-section (3), for the expression "clause (b) of sub-section (1) of section 77", the expression "sub-section (2) of section 77" shall be substituted;

(ii) after sub-section (4), the following sub-section shall be inserted, namely:—

"(4-A) The proceeds of the pilgrim tax shall be credited to the district fund:

Provided that where the tax is levied in respect of a panchayat area and the occasion for pilgrimage is not a festival classified as a district festival, the proceeds shall be credited to the panchayat fund";

(iii) in sub-section (5), for the words "local board" in clause (ii), the words "district board or panchayat" shall be substituted;

(iv) in the same sub-section, in clause (iv), for the words "local boards" wherever they occur, the words "district boards or panchayats" shall be substituted.

Amendment of section 111, Madras Act XIV of 1920.

57. In section 111 of the said Act, for the words and figures "Subject to the provisions of section 103, the district board", the words "The district board" shall be substituted.

Amendment of section 111-A, Madras Act XIV of 1920.

58. To section 111-A of the said Act, the following proviso shall be added, namely:—

"Provided that where the district collector or any of his subordinates is responsible for the collection of any tax, fee or other amount due to a district board, the power to write off such tax, fee or amount or any sum payable in connexion therewith, on the ground of its being irrecoverable, shall be exercised by the Board of Revenue or subject to its control, by the district collector or any officer authorized by him".

Amendment of section 112, Madras Act XIV of 1920.

59. In section 112 of the said Act—

(i) to sub-section (1), the following proviso shall be added, namely:—

"Provided that nothing contained in this sub-section shall be deemed to enable a district board to expend its moneys within any panchayat area for any purpose exclusively within the jurisdiction of the panchayat, except with the general or special sanction of the Provincial Government";

(*ii*) in sub-section (2), for the words "area of the local board" and "local board area", the word "district" shall be substituted.

Amendment of section 114, Madras Act XIV of 1920.

60. In section 114 of the said Act, the words "and for each village a village fund" shall be omitted.

Amendment of section 115, Madras Act XIV of 1920.

61. In section 115 of the said Act, for the words "village and district funds respectively", the words "district funds" shall be substituted.

Amendment of section 116, Madras Act XIV of 1920.

62. In section 116 of the said Act—

(*i*) in sub-section (2), for the words "Every local board", the words "The district board" shall be substituted;

(*ii*) sub-section (3) shall be omitted.

Amendment of section 117, Madras Act XIV of 1920.

63. In section 117 of the said Act—

(*i*) in sub-section (1), for the words "a consolidated budget", the words "its budget" shall be substituted and the words "of itself and of all panchayats in the district" shall be omitted.

(*ii*) in sub-section (2), the word "consolidated" shall be omitted, and for the words "any local board", the words "the district board" shall be substituted.

Repeal of section 118, Madras Act XIV of 1920.

64. Section 118 of the said Act shall be omitted.

Amendment of section 121, Madras Act XIV of 1920.

65. In sub-section (1) of section 121 of the said Act, for the words "of a local board area", the words "of the district or any part thereof" shall be substituted.

Insertion of new section 121-B and heading in Madras Act XIV of 1920.

66. Before section 122 of the said Act and the heading thereto, the following heading and section shall be inserted, namely:—

"*Application of Chapter to panchayat areas.*

Provisions of chapter except sections 137 to 139 not to apply to panchayat areas.

121-B. The provisions of this Chapter, except sections 137, 138, 138-A and 139, shall not apply to any panchayat area unless the Provincial Government by general or special order, otherwise direct."

Amendment of section 124, Madras Act XIV of 1920.

67. In sub-section (2) of section 124 of the said Act, the words "in the village" shall be omitted.

Amendment of section 126, Madras Act XIV of 1920.

68. In section 126 of the said Act—

(*i*) in clause (*i*), the words "in the village" shall be omitted;

(*ii*) in clause (*ii*), the words "in the village" and "or of the district board" shall be omitted, and for the words "for the maintenance, repair and improvement thereof," the words "for their maintenance, repair and improvement with a view to their use by the public but shall not be entitled to levy any fees in respect thereof" shall be substituted.

Amendment of section 128, Madras Act XIV of 1920.

69. In section 128 of the said Act, the words "or village", "or the panchayat as the case may be" and or panchayat" shall be omitted.

Amendment of section 129, Madras Act XIV of 1920.

70. In section 129 of the said Act, after the words "a public road" where they occur for the first time, the words "vested in a district board" shall be inserted, and for those words where they occur for the second time, the words "such public road" shall be substituted.

Amendment of section 135, Madras Act XIV of 1920.

71. In section 135 of the said Act, for the word "village", the word "district" shall be substituted.

Insertion of new section 138-A in Madras Act XIV of 1920.

72. After section 138 of the said Act, the following section shall be inserted, namely:—

Power of Government to transfer vaccination to panchayats.

"138-A. Notwithstanding anything contained in section 137, the Provincial Government may direct that vaccination in any panchayat area shall be enforced by the panchayat and its executive authority in which case section 138 shall have effect as if for the words 'executive authority of the district board' therein, the words 'executive authority of the panchayat' were substituted.

Amendment of section 140, Madras Act XIV of 1920.

73. In sub-section (2) of section 140 of the said Act, the words "with the sanction of the district board" shall be omitted.

Amendment of section 146, Madras Act XIV of 1920.

74. In section 146 of the said Act—

(i) in sub-section (1), the words "with the previous sanction of the district board" shall be omitted;

(ii) in sub-section (2), for the word "village", the words "local area" shall be substituted.

Amendment of sections 147 and 148, Madras Act XIV of 1920.

75. In sub-section (1) of sections 147 and 148 of the said Act, for the words "public road appears to the executive authority of the local board in which such road is vested", the words "public road vested in a district board appears to the executive authority thereof" shall be substituted.

Amendment of section 150, Madras Act XIV of 1920.

76. In sub-section (1) of section 150 of the said Act, after the words "other place", the words "in a non-panchayat area" shall be inserted.

Amendment of section 151, Madras Act XIV of 1920.

77. In clause (a) of sub-section (1) of section 151 of the said Act, after the words "public road", the words "vested in" shall be inserted.

Amendment of section 153, Madras Act XIV of 1920.

78. In sub-sections (1) and (2) of section 153 of the said Act, after the words "any building or land", the words "in a non-panchayat area" shall be inserted.

Amendment of section 154, Madras Act XIV of 1920.

79. To sub-section (1) of section 154 of the said Act, the following paragraph shall be added at the end, namely:—

"Where such notice is given, no person shall keep any pig or dog, as the case may be, within such limits without obtaining a licence from the executive authority of the district board or otherwise than in accordance with the conditions specified in such licence."

Amendment of section 157, Madras Act XIV of 1920.

80. In section 157 of the said Act, after the words "public road", the words "vested in a district board" shall be inserted.

Amendment of section 158, Madras Act XIV of 1920.

81. For sub-section (1) of section 158 of the said Act, the following sub-section shall be substituted, namely:—

"(1) No door, gate, bar or ground-floor window shall be hung or placed so as to open outwards upon any public road vested in a district board, without a licence from the executive authority of such board."

Amendment of section 160, Madras Act XIV of 1920.

82. In sub-section (5) of section 160 of the said Act, the words "or any class of local boards" shall be omitted.

Amendment of section 161, Madras Act XIV of 1920.

83. In sub-section (1) of section 161 of the said Act, after the word "erected", the words "in a non-panchayat area" shall be inserted.

Amendment of section 163, Madras Act XIV of 1920.

84. In sub-section (1) of section 163 of the said Act, after the words "public road", the words "vested in a district board" shall be inserted, and for the words "executive authority of the local board in which such road is vested", the words "executive authority of the district board" shall be substituted.

Amendment of heading of Chapter XI, Madras Act XIV of 1920.

85. (1) For the heading of Chapter XI of the said Act, namely, "MARKETS, SLAUGHTER-HOUSES, ETC.", the heading "LICENCES AND FEES" shall be substituted.

Insertion of new sections 166 and 166-A and sub-headings in Madras Act XIV of 1920.

(2) After the heading as so altered, the following sub-headings and sections shall be inserted, namely:—

"*General exemption.*

Government and market committees not to obtain licences and permissions.

166. Nothing in this Act or in any rule, by-law or regulation made thereunder shall be construed as requiring the taking out of any licence or the obtaining of any permission under this Act or any such rule, by-law or regulation in respect of any place in the occupation or under the control of the Central or the Provincial Government or of a market committee established under the Madras Commercial Crops Markets Act, 1933, or in respect of any Crown property or of any property belonging to such market committee.

Classification of public and private markets.

Classification of markets as district and panchayat markets.

166-A. The Provincial Government shall have power to classify public and private markets situated in a panchayat area as district markets and panchayat markets respectively and provide for the control of any such market and for the apportionment of the income derived therefrom between the district board and the panchayat or the payment of a contribution in respect thereof to the panchayat or the district board, as the case may be".

Amendment of section 168, Madras Act XIV of 1920.

86. In section 168 of the said Act—

(*i*) to sub-section (1), the words "in any non-panchayat area and if specially authorized by the Provincial Government in that behalf, in any panchayat area" shall be added at the end;

(*ii*) in sub-section (2), for the words "any public market", the words "any of its public markets" shall be substituted; and after the words "farm out such fees", the words "for any period not exceeding three years at a time and" shall be inserted;

(*iii*) in sub-section (3), the words "with the sanction of the district board" shall be omitted and for the words "any public market", the words "any of its public markets" shall be substituted.

Amendment of section 169, Madras Act XIV of 1920.

87. In sub-sections (1) and (2) of section 169 of the said Act, for the words "any public market", the words "any district board public market" shall be substituted.

Amendment of section 171, Madras Act XIV of 1920.

88. In section 171 of the said Act—

(*i*) in sub-section (1), after the words "no person shall", the words "in any non-panchayat area or if the district board is specially authorized by the Provincial Government in that behalf, in any panchayat area" shall be inserted;

(*ii*) in sub-section (2), for the words "not less than six weeks before such place is opened as a market or before the commencement of the year for which the licence is sought", the words "not less than thirty and not more than ninety days before such place is opened as a market or the commencement of the year for which the licence is sought to be renewed" shall be substituted.

Amendment of section 172, Madras Act XIV of 1920.

89. In section 172 of the said Act—

(*i*) in sub-section (1), the reference to the Madras Local Boards Act, 1884, shall be retained unaltered;

(*ii*) for sub-sections (2) and (3), the following sub-section shall be substituted, namely:—

"(2) The district board shall, after making or causing to be made such inquiries, if any, as it thinks fit, grant or refuse the certificate."

Amendment of section 175, Madras Act XIV of 1920.

90. In section 175 of the said Act, for the words "unlicensed private market", the words "private market not duly licensed under the foregoing provisions or under the provisions of the Madras Village Panchayats Act, 1946" shall be substituted.

Amendment of sections 176 and 178, Madras Act XIV of 1920.

91. In sections 176 and 178 of the said Act, after the words "any private market", the words "in a non-panchayat area or of any private market in a panchayat area which is classified as a district market" shall be inserted.

Amendment of section 179, Madras Act XIV of 1920.

92. For clauses (*a*) and (*b*) of section 179 of the said Act, the following clauses shall be substituted, namely:—

"(*a*) in respect of which no licence has been applied for, if the market is in a non-panchayat area or if being in a panchayat area it is classified as a district market; or

(*b*) the licence for which has been refused, withheld or suspended by the district board; or".

Amendment of section 180, Madras Act XIV of 1920.

93. In sub-section (1) of section 180 of the said Act, after the words "to hold a private market in any place", the words "in a non-panchayat area or to hold a private market classified as a district market in any place in a panchayat area" shall be inserted.

Amendment of section 181, Madras Act XIV of 1920.

94. In section 181 of the said Act, for the words "appeal against such order to the district board", the words "appeal against such order to the Provincial Government" and for the words "the executive authority of the district board may, if he thinks fit," the words "the Provincial Government may, if they think fit" shall be substituted.

Amendment of section 182, Madras Act XIV of 1920.

95. In section 182 of the said Act, after the word "market", the words "in a non-panchayat area or of a market in a panchayat area which is classified as a district market" shall be inserted.

Repeal of section 183-A, Madras Act XIV of 1920.

96. Section 183-A of the said Act shall be omitted.

Amendment of section 183-B, Madras Act XIV of 1920.

97. (1) In section 183-B of the said Act, the words "panchayat or" shall be omitted.

(2) To the same section, the following proviso shall be added, namely:—

"Provided that no such reference shall be made in respect of any place in a panchayat area except with the special sanction of the Provincial Government."

Amendment of section 184, Madras Act XIV of 1920.

98. (1) In sub-section (1) of section 184 of the said Act, after the word "cart-stands", the words "in non-panchayat areas" shall be inserted.

(2) In sub-section (1-B) of the same section, the reference to the Madras District Municipalities and Local Boards (Amendment) Act, 1941, shall be retained unaltered.

Amendment of section 185, Madras Act XIV of 1920.

99. To section 185 of the said Act, the words "being a place or road vesting in the district board" shall be added.

Amendment of section 187, Madras Act XIV of 1920.

100. In section 187 of the said Act—

(i) in sub-section (1), after the words "No person shall", the words "in any non-panchayat area" shall be inserted;

(ii) in sub-section (2), for the words "not less than six weeks before such place is opened as a cart-stand or before the commencement of the year for which the licence is sought," the words "not less than thirty and not more than ninety days before the opening of such place as a cart-stand or the commencement of the year for which the licence is sought to be renewed" shall be substituted.

Amendment of section 189, Madras Act XIV of 1920.

101. In section 189 of the said Act—

(i) to sub-section (1), the words "in non-panchayat areas" shall be added;

(ii) to sub-section (2), the words "at such rates as it may think fit" shall be added;

(iii) after sub-section (2), the following sub-section shall be added, namely:—

"(3) The district board may—

(a) place the collection of such rents and fees under the management of such persons as may appear to it proper; or

(b) farm out the collection of such rents and fees for any period not exceeding three years at a time on such terms and conditions as it may think fit."

Amendment of section 190, Madras Act XIV of 1920.

102. In section 190 of the said Act—

(i) the words "with the sanction of the district board" shall be omitted;

(ii) in clause (a), for the words "in the village or in any specified area therein", the words "in any specified non-panchayat area" shall be substituted;

(iii) in clause (b), after the words "slaughter or permit to be slaughtered", the words "in any specified non-panchayat area" shall be inserted.

Amendment of section 191, Madras Act XIV of 1920.

103. In section 191 of the said Act, for the words "within the village", the words "in non-panchayat areas" shall be substituted.

Amendment of section 198, Madras Act XIV of 1920.

104. In section 198 of the said Act—

(i) in sub-section (1), for the words "within the limits of the village", the words "situated in any non-panchayat area or in such non-panchayat area as may be specified in the notification" shall be substituted;

(ii) to the proviso to the same sub-section, the following words and figures shall be added at the end, namely:—

"or except with the previous sanction of the Provincial Government, in any area within three miles of the limits of any municipality constituted under the Madras City Municipal Act, 1919, or the Madras District Municipalities Act, 1920.";

(iii) in sub-section (5), after the words and figures "not less than 30 days" in both the places where they occur, the words and figures "and not more than 90 days" shall be inserted;

(iv) after sub-section (5), the following sub-sections shall be added, namely:—

"(6) Any person aggrieved by an order of the executive authority under sub-section (3) may appeal against such order to the district board.

(7) Any person aggrieved by an order of the district board under sub-section (6) may appeal against such order to the Provincial Government."

Amendment of section 194, Madras Act XIV of 1920.

105. In section 194 of the said Act—

(i) in clause (a) of sub-section (1), after the word "establish", the words "in any non-panchayat area" shall be inserted;

(ii) in clause (b) of the same sub-section, after the word "premises", the words "in a non-panchayat area" and after the word "aforesaid", the words "not being machinery or manufacturing plant exempted by rules made by the Provincial Government" shall be inserted;

(iii) in sub-section (2), after the words "The application", the words "shall specify the maximum number of workers proposed to be simultaneously employed at any time in the factory, workshop, work-place or premises and" shall be inserted;

(iv) in clause (ii) of the same sub-section, the words "by the district board" shall be omitted;

(v) in clause (a) of sub-section (4), after the word "shall" at the commencement, the words "if more than nine workers are proposed to be simultaneously employed at any time in the factory, work-shop, work-place or premises" shall be inserted;

(vi) after sub-section (4), the following sub-sections and Explanation shall be added, namely:—

"(5) More than nine workers shall not be simultaneously employed at any time in any factory, work-shop, work-place or premises, unless the permission granted in respect thereof under sub-section (3) authorizes such employment or unless fresh permission authorizing such employment has been obtained from the district board. Before granting such fresh permission, the board shall obtain the approval of the inspector of factories referred to in clause (a) of sub-section (4) as regards the plan of the factory, work-shop, work-place or premises with reference to the matters specified in that clause.

(6) The grant of permission under this section shall, in regard to the replacement of machinery, the levy of fees, the conditions to be observed, and the like be subject to such restrictions and control as may be prescribed.

Explanation.—The word 'worker' in sub-sections (2), (4) and (5) shall, in relation to any factory, work-shop, work-place or premises, have the same meaning as in the Factories Act, 1934."

Amendment of section 195, Madras Act XIV of 1920.

106. In sub-section (1) of section 195 of the said Act, after the word "work-place", the words "in a non-panchayat area," shall be inserted.

Amendment of section 196, Madras Act XIV of 1920.

107. In section 196 of the said Act, for the words and figures "section 194 or section 195", the words and figures "section 193, section 194 or section 195" shall be substituted.

Amendment of section 197, Madras Act XIV of 1920.

108. In sub-section (1) of section 197 of the said Act, after the word "work-place", the words "in a non-panchayat area" shall be added.

Amendment of section 198, Madras Act XIV of 1920.

109. In section 198 of the said Act—

(i) for the words "local board area" in the opening paragraph, the words "non-panchayat area" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely:—

"(a) the authority to whom application shall be made for a licence under that Act in respect of any place or building, used exclusively for purposes other than the holding of

cinematograph exhibitions, and who may grant or refuse such licence shall be the executive authority of the district board;"

Amendment of section 199, Madras Act XIV of 1920.

110. In clause (f) of sub-section (2) of section 199 of the said Act, for the words "for purposes of medical relief", the words "for purposes of education and medical relief" shall be substituted.

Amendment of section 202, Madras Act XIV of 1920.

111. To section 202 of the said Act, the following proviso shall be added, namely:—

"Provided that nothing contained in this section shall be deemed to authorize the district board, without the approval of the Provincial Government, to make by-laws for any panchayat area in respect of any matter for which the panchayat may make by-laws under the Madras Village Panchayats Act, 1946."

Repeal of section 203-A, Madras Act XIV of 1920.

112. Section 203-A of the said Act shall be omitted.

Amendment of sections 204 and 205, Madras Act XIV of 1920.

113. In sections 204 and 205 of the said Act, the words "or panchayat" shall be omitted.

Amendment of section 205-A, Madras Act XIV of 1920.

114. In section 205-A of the said Act—

(i) sub-section (2) shall be omitted and sub-section (3) renumbered as sub-section (2);

(ii) in sub-section (2) as so renumbered, the words "or panchayat" and the words, figure and brackets "or (2) as the case may be" shall be omitted.

Amendment of section 206, Madras Act XIV of 1920.

115. In section 206 of the said Act, the words 'of the panchayat and" shall be omitted, and for the words "to the village or to any specified area therein", the words "to any specified non-panchayat area in the district" shall be substituted.

Amendment of section 208, Madras Act XIV of 1920.

116. In section 208 of the said Act—

(i) in sub-section (2), for the words "acts as the president, temporary president or vice-president of a local board or exercises any of his functions including where he is also the executive authority any of his functions as such", the words "acts as the president or vice-president of a district board or exercises any of his functions including his functions as executive authority" shall be substituted;

(ii) in sub-section (3), the words "temporary president" wherever they occur shall be omitted.

Amendment of section 212, Madras Act XIV of 1920.

117. In section 212 of the said Act—

(i) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The district board may—

(a) place the collection of such fees under the management of such persons as may appear to it proper; or

(b) farm out the collection of such fees for any period not exceeding three years at a time and on such terms and conditions as it may think fit.";

(ii) after sub-section (10), the following sub-section shall be inserted, namely:—

"(10-A) Save as otherwise expressly provided in, or may be prescribed under this Act, every application for a licence or permission or the renewal of a licence or permission shall be made not less than thirty and not more than ninety days before the commencement of the year or of such less period as is mentioned in the application".

Amendment of section 218, Madras Act XIV of 1920.

118. In section 218 of the said Act, for the words "in the area of the local board concerned", the words "in the district" shall be substituted.

Amendment of section 221, Madras Act XIV of 1920.

119. In section 221 of the said Act, for the words and figures "demanded by bill as provided in the rules in Schedule IV and recovered in the manner provided therein", the words and figures "demanded by bill and if not paid within fifteen days of the date of the service thereof, shall be recoverable in the manner provided in Schedule IV as if the same were a profession tax" shall be substituted.

Amendment of section 233, Madras Act XIV of 1920.

120. (1) Section 233 of the said Act shall be renumbered as sub-section (1) of that section and in the section as so renumbered, the words "in regard to any local board or any class of local boards or all local boards in that area" shall be omitted.

(2) To the section as so renumbered, the following sub-section shall be added, namely:—

"(2) The exercise of any powers delegated under sub-section (1) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification, and also to control and revision by the Provincial Government or by such person as may be empowered by them in this behalf. The Provincial Government shall also have power to control and revise the acts or proceedings of any persons so empowered."

References to the Madras Local Boards Act, 1884, to remain unaltered.

121. In sections 235 (1) and 236 of the said Act, the reference to the Madras Local Boards Act, 1884, shall be retained unaltered.

Amendment of section 237, Madras Act XIV of 1920.

122. In sub-section (2) of section 237 of the said Act, the words "for different classes of local boards" shall be omitted.

Amendment of section 240, Madras Act XIV of 1920.

123. In section 240 of the said Act—

(i) in sub-section (1), for the words "and its executive authority", the words "including his powers, duties and functions as executive authority" shall be substituted;

(ii) in sub-section (2), the words and figure "or 5 as the case may be" shall be omitted;

(iii) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Special Officer shall exercise the powers, discharge the duties and perform the functions—

(a) of the district board until a board has been constituted; and

(b) of the president of the board including his powers, duties and functions as executive authority until a president has been elected by the board.";

(iv) in sub-section (5), for the words "in the same district", the words and figures "in that one of the three groups of districts as divided by the Madras Local Boards (Amendment) Act, 1935, to which the district belongs" shall be substituted;

(v) to clause (a) of sub-section (8), the following words shall be added at the end, namely:—

"or for which a panchayat has been newly constituted";

(vi) in clause (b) of the same sub-section, the words "or village", the word and figure "or 5" and the words "or panchayat as the case may be" shall be omitted.

Amendment of section 241, Madras Act XIV of 1920.

124. In sub-section (1) of section 241 of the said Act, the words "district board or panchayat" in the two places where they occur and the words "as the case may be" at the end shall be omitted.

Amendment of Schedule II, Madras Act XIV of 1920.

125. In Schedule II to the said Act—

(i) in rule 2, the words "and every panchayat at least once in every month" shall be omitted;

(ii) in sub-rule (1) of rule 3, after the words "No meeting", the words "of the district board" shall be inserted, and the words "at least three clear days before the day of the meeting in the case of panchayats and" and "in the case of district boards" shall be omitted;

(iii) in sub-rule (1) of rule (4), the words "executive officer", the words "at least ten clear days before the day of the meeting in the case of panchayats and" and the words "in the case of district boards" shall be omitted;

(iv) sub-rules (2), (3) and (4) of rule 11 shall be omitted, and sub-rule (1) of that rule shall be renumbered as rule 11.

Amendment of Schedule IV, Madras Act XIV of 1920.

126. In Schedule IV to the said Act—

(i) for rule 3, the following rule shall be substituted, namely:—

"3. The district collector shall cause the net proceeds of the land cess collected under the authority conferred on him by this Act to be credited to the district fund and the panchayat fund in accordance with the provisions of section 92.";

(ii) in rule 4, for the words "local board concerned", the words "district board or panchayat concerned" shall be substituted;

(iii) for the heading before rule 5 "Part II—Other Taxes.

Provisions common to other taxes in general", the heading "Part II—Profession Tax —General" shall be substituted;

(iv) in sub-rule (1) of rule 5, the words "separate" and "and the house tax" shall be omitted;

(*v*) in sub-rule (2) of the same rule, for the words "any tax", the words "the tax" shall be substituted;

(*vi*) in sub-rule (4) (*a*) of the same rule, the words "or any property" and the words "relating to any tax" shall be omitted;

(*vii*) in rule 6, for the words "person or property", the words "or person" shall be substituted;

(*viii*) in rule 10, for the words "local area" in the two places where they occur, the words "non-panchayat area" shall be substituted;

(*ix*) in sub-rule (1) of rule 11, for the words "the area of a single local board" in the opening paragraph, the words "the non-panchayat area of a single district board" and for the words "the area of the local board" in clause (*b*), the words "the non-panchayat area of the district board" shall be substituted;

(*x*) in sub-rule (2) of the same rule, for the words "partly in the area of a local board", the words "partly in the non-panchayat area of a district board" and for the words "in the area of the local board" occurring later, the words "in the non-panchayat area of the district board" shall be substituted;

(*xi*) in sub-rule (3) of the same rule, for the words "local area" in the two places where they occur, the words "non-panchayat area" shall be substituted;

(*xii*) rules 12 to 25 and the heading thereto shall be omitted;

(*xiii*) for rule 27, the following rule shall be substituted, namely:—

"27. An appeal shall lie to the district board in respect of the proceedings of the executive authority under rule 11-A.";

(*xiv*) in rules 30 and 31, for the words "any tax", the words "the tax" shall be substituted;

(*xv*) in rule 32—

(*a*) sub-rule (1) shall be omitted and sub-rules (2) to (4) renumbered as sub-rules (1) to (3) respectively;

(*b*) in sub-rule (1) as so renumbered, the words, figures and brackets "and a bill under sub-rule (1) of rule 32" shall be omitted;

(*c*) in clause (*a*) of the same sub-rule, the words "property or thing" shall be omitted;

(*d*) in sub-rule (2) as so renumbered, the words "or bill" and "or bill as the case may be" shall be omitted;

(*xvi*) in sub-rule (1) of rule 33, for the words "any tax", the words "the tax" shall be substituted, and the words "or bill" shall be omitted;

(*xvii*) rule 38 shall be omitted;

(*xviii*) in Appendix A, the words "and premises, if any in respect of which the tax or taxes are due" and the words and brackets "(or as the case may be any goods and chattels found on the premises referred to)" shall be omitted.

Amendment of Schedule V, Madras Act XIV of 1920.

127. In Schedule V to the said Act—

(*i*) rule 1-A shall be omitted and rules 1-B and 1-C shall be renumbered as rules 1-A and 1-B respectively;

(*ii*) in sub-rule (1) of rule 1-A as so renumbered—

(1) in clause (*a*), after the words "district roads", the words "and of all public roads in non-panchayat areas" shall be inserted;

(2) to clause (*c*), the words "and of all choultries in non-panchayat areas" shall be added at the end;

(3) clause (*cc*) shall be relettered as clause (*ccc*) and the following shall be inserted as clause (*cc*), namely:—

"(*cc*) the lighting of all public roads and public places within any non-panchayat area where lighting is considered necessary;";

(4) in clause (*ccc*) as so relettered, for the portion beginning with the word "except" and ending with the words "district board", the following shall be substituted, namely:—

"except in any panchayat area where a contribution is paid by the district board to the panchayat on the scale fixed by the Provincial Government for the opening and maintenance of elementary schools;";

(5) for clause (*dd*), the following clause shall be substituted, namely:—

"(*dd*) the opening and maintenance of libraries and reading rooms in non-panchayat areas and of libraries and reading rooms classified as district libraries and district reading rooms in panchayat areas;";

(6) for clause (*h*), the following clause shall be substituted, namely:—

"(*h*) the establishment and maintenance of hospitals; the establishment and maintenance of dispensaries in non-panchayat areas and of dispensaries other than those classified

as panchayat dispensaries in panchayat areas; and every other kind of medical relief in non-panchayat areas, and every other kind of medical relief not given by the panchayat in panchayat areas;";

(7) to clause (*hh*), the following words shall be added at the end, namely:—

"except in panchayat areas where the Provincial Government have under the Madras Village Panchayats Act, 1946, ordered that vaccination shall be carried out by the panchayat";

(8) in clause (*i*), for the portion beginning with the word "except" and ending with "rule 1-A", the following shall be substituted, namely:—

"except, in panchayat areas, such measures as may have been ordered by the Provincial Government to be carried out by the panchayat under the Madras Village Panchayats Act, 1946";

(9) to clause (*l*), the following words shall be added, namely:—

"in panchayat areas and of all public markets in non-panchayat areas";

(10) to clause (*m*), the following words shall be added, namely:—

"in panchayat areas and of all fairs and festivals in non-panchayat areas";

(11) for clause (*n*), the following clauses shall be substituted, namely:—

"(*n*) the construction of drains and disposal of drainage water and sullage, in any non-panchayat area;

(*o*) in any non-panchayat area, the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows; and other improvements of the sanitary condition;

(*p*) the provision of public latrines and arrangements to cleanse latrines, whether public or private, in any non-panchayat area;

(*q*) the opening and maintenance of burial and burning grounds in non-panchayat areas;

(*r*) in non-panchayat areas, the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes, and the construction of bathing ghats;

(*s*) the opening and maintenance of public slaughter-houses in non-panchayat areas;

(*t*) the establishment and maintenance in non-panchayat areas of wireless receiving sets, of playgrounds, of parks, of sports clubs and of centres of physical culture.";

(*vii*) in sub-rule (2) of the same rule—

(1) in clause (*a*), after the words "all district roads", the words "and on all public roads in non-panchayat areas" shall be added;

(2) clauses (*c*) to (*e*) shall be relettered as clauses (*j*) to (*l*) respectively and after clause (*b*), the following clauses shall be inserted, namely:—

"(*c*) the opening and maintenance in non-panchayat areas of public landing places, halting places and cart-stands and of public cattle-sheds;

(*d*) the control in non-panchayat areas of threshing floors, topes and other poramboke used by the inhabitants of the locality in common;

(*e*) the control in non-panchayat areas of public buildings and other property belonging to the inhabitants of the locality in common;

(*f*) the extension of village sites and regulation of building in non-panchayat areas;

(*g*) the registration of births and deaths in non-panchayat areas;

(*h*) improvements of agriculture and agricultural stock and holding of agricultural shows in non-panchayat areas;

(*i*) the promotion and encouragement of cottage industries in non-panchayat areas;";

(3) in clause (*k*) as so relettered, for the words, figure and letter "of the district, which are not specifically included in any of the clauses in rule 1-A", the words "of non-panchayat areas and with the special sanction of the Provincial Government, of the inhabitants of panchayat areas" shall be substituted;

(4) in clause (*l*) as so relettered, for the letter and brackets "(*d*)" the letter and brackets "(*h*)" shall be substituted and before the words "municipal councils", the word "panchayats" shall be inserted;

(*iv*) rules 2 and 3 shall be omitted;

(*v*) in rule 4, for the words "any other local board", the words "any panchayat" shall be substituted;

(*vi*) (1) in rule 5, the words "village and" and "respectively" in the opening paragraph and the heading "A.—Village Funds" and all the items thereunder shall be omitted; and for the heading "B.—District Funds", the heading "District Funds" shall be substituted; and for items (1) and (1-A) under that heading, the following items shall be substituted, namely:—

"(1) The land-cess levied in the district, subject to the provisions of section 92.

(2) The profession tax levied in nonn-panchayat areas in the district under section 98.

(2-A) The pilgrim tax levied (*i*) in respect of any panchayat area in the district where the occasion for pilgrimage is a festival classified as a district festival, and (*ii*) in respect of any non-panchayat area in the district;";

(2) for item (3-A) under the same heading, the following items shall be substituted, namely:—

"(8-A) Fees levied (i) in public markets in panchayat areas which are classified as district markets, after deducting the contribution, if any, paid by the district board to the panchayat on the scale fixed by the Government, and (ii) in public markets in non-panchayat areas.

(8-B) The contribution paid to the district board by panchayats in respect of markets situated in panchayat areas which are not classified as district markets, on the scale fixed by the Government.

(8-C) Fees for the use of public landing places, halting places, cartstands and slaughter-houses in non-panchayat areas; and fees for the temporary occupation of village-sites, roads, burial and burning grounds and other similar public places or parts thereof in non-panchayat areas.";

(3) in item 5 under the same heading, for the words "in the district", the words "in panchayat areas" shall be substituted, and after the words "district choultries", the words "and of all choultries in non-panchayat areas" shall be added;

(4) in item (7) under the same heading, for the words "and dispensaries classified as district hospitals and dispensaries", the words "of dispensaries in non-panchayat areas and of dispensaries in panchayat areas classified as district dispensaries" shall be substituted;

(5) in item (12) under the same heading, after the words "all district roads", the words "and to all public roads in non-panchayat areas" shall be added;

(6) in item (18) under the same heading, after the word "ferries", the words "and fisheries" shall be inserted;

(7) after item (18) under the same heading, the following item shall be inserted, namely:—

"(19) All sums other than those enumerated above which arise out of, or are received in aid of, or for expenditure on, any institutions or services maintained or financed from the district fund or managed by the district board.";

(vii) rule 6 shall be omitted;

(viii) in rule 8—

(1) in sub-rule (1), the words "and all moneys received by a panchayat shall be lodged either in the nearest Government Treasury or in the nearest Post Office Savings Bank" shall be omitted;

(2) clause (b) of sub-rule (2) shall be omitted and clause (a) thereof shall be renumbered as sub-rule (2), and in the sub-rule as so renumbered, the words "and a panchayat may with the sanction of the district board" shall be omitted;

(ix) in sub-rule (1) of rule 9, sub-clause (ii) of clause (b) shall be omitted and sub-clause (i) thereof shall be relettered as clause (b), and in the clause as so relettered, the words "in the case of district boards or" shall be omitted.

Amendment of Schedule VII, Madras Act XIV of 1920.

128. After the proviso to Schedule VII to the said Act, the following proviso shall be added, namely:—

"Provided further that no licence shall be required under this Act for a lodging house as defined in the Madras Public Health Act, 1939, if the keeper thereof has been registered under that Act".

Amendment of Schedule VIII, Madras Act XIV of 1920.

129. In Schedule VIII to the said Act—

(i) before the item relating to section 97, the following item shall be inserted, namely:—

"34 (1) .. Interested member voting or taking part in discussion. .. Fifty rupees."

(ii) after the item relating to section 97, the following item shall be inserted, namely:—

"98 .. Failure of employer or head of an office, firm or company to obey requisition to furnish list of persons under his employ. One hundred rupees.";

(iii) the item relating to section 102 (1) shall be omitted;

(iv) after the item relating to section 153, sub-section (2), the following item shall be inserted, namely:—

"154 (1) .. Keeping a dog or pig without licence or contrary to licence .. Ten rupees."

Amendment of Schedule IX, Madras Act XIV of 1920.

130. In Schedule IX to the said Act, after the item relating to section 153, sub-section (2), the following item shall be inserted, namely:—

"154 (1) .. Keeping a dog or pig without licence or contrary to licence .. Two rupees."

Construction of references to "local board" and "Madras Local Boards Act, 1920."

131. In the absence of an intention to the contrary appearing in this Act or in the Madras Village Panchayats Act, 1946, and unless the Provincial Government otherwise direct, any reference to local boards in any law or rule in force in the Province at the commencement of this Act shall be deemed to be a reference to district boards and panchayats, and any reference to the Madras Local Boards Act, 1920, in any such law or rule

shall be deemed to be a reference to the Madras District Boards Act, 1920, and the Madras Village Panchayats Act, 1946.

Modification of provisions of Act in their first application.

132. In first giving effect to the provisions of the said Act as amended by this Act, the said provisions shall be read subject to the modification that the land-cess shall be distributed in the manner referred to in section 92 of the said Act as amended by this Act, as if the proviso to that section had come into operation on the first day of July immediately preceding the commencement of this Act.

Power to remove difficulties.

133. If any difficulty arises in first giving effect to the provisions of this Act or of the said Act as amended by this Act, the Provincial Government, as occasion may arise, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE MADRAS VILLAGE PANCHAYATS ACT, 1946.

ACT No. XII OF 1946.

[9th April, 1946.

An Act to make better provision for the administration of village affairs by panchayats.

WHEREAS it is expedient to make better provision in a separate enactment for the administration of village affairs by panchayats;

AND WHEREAS the Governor of Madras has, by a Proclamation under section 93 of the Government of India Act, 1935, assumed to himself all powers vested by or under the said Act in the Provincial Legislature;

Now, THEREFORE, in exercise of the powers so assumed to himself, the Governor is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called THE MADRAS VILLAGE PANCHAYATS ACT, 1946.

(2) It extends to the whole of the Province of Madras except the City of Madras, the municipalities governed by the Madras District Municipalities Act, 1920, and the cantonments governed by the Cantonments Act, 1924.

(3) It shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) 'casual vacancy' means a vacancy occurring otherwise than by efflux of time, and 'casual election' means an election held to fill a casual vacancy;

(2) 'Collector' means the Collector of the revenue district;

(3) 'election authority' means such authority, not being the president or vice-president or a member of the panchayat, as may be prescribed;

(4) 'executive authority' means—

(i) in the case of a panchayat notified under sub-section (1) of section 23, the executive officer, and if there is no executive officer in charge, the president of the panchayat;

(ii) in the case of any other panchayat, the president thereof;

(5) 'executive officer' means the executive officer of a panchayat;

(6) 'forest' includes unreserved land at the disposal of the Government and forest reserved under the Madras Forest Act, 1882;

(7) 'Government' means the Provincial Government as defined in clause (43-a) of section 3 of the General Clauses Act, 1897;

(8) 'house' means a building or hut fit for human occupation, whether as a residence or otherwise, having a separate principal entrance from the common way, and includes any shop, workshop or warehouse or any building used for garaging or parking buses or as a bus-stand;

(9) 'Indian Christian' means a native of India who is, or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion;

(10) 'latrine' includes privy, water-closet and urinal;

(11) 'member' means the member of a panchayat;

(12) 'ordinary vacancy' means a vacancy occurring by efflux of time and 'ordinary election' means an election held to fill an ordinary vacancy;

(13) 'panchayat' means the body constituted for the local administration of a village under this Act;

(14) 'prescribed' means prescribed by the Government by rules made under this Act;

(15) 'president' means the president of a panchayat;

(16) 'private road' means any street, road, square, court, alley, passage, cart-track, foot-path or riding-path which is not a 'public road', but does not include a pathway made by the ownenr of premises on his own land to secure access to, or the convenient use of, such premises;

(17) 'public road' means any street, road, square, court, alley, passage, cart-track, foot-path or riding-path, over which the public have a right of way whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the footway attached to any such road, public bridge or causeway; and

(c) the drains attached to any such road, public bridge or causeway, and the land, whether covered or not by any pavement, veranda or other structure, which lies on either side of the roadway up to the boundaries of the adjacent property, whether that property is private property or property belonging to the Crown;

(18) 'Registrar-General' means the Registrar-General of Panchayats appointed under clause (a) of sub-section (1) of section 87;

(19) a person is deemed to have his 'residence' or to 'reside' in any house if he sometimes uses any portion thereof as a sleeping apartment, and a person is not deemed to cease to reside in any such house merely because he is absent from it or has elsewhere another dwelling in which he resides, if he is at liberty to return to such house at any time and has not abandoned his intention of returning;

(20) 'revenue village' means any local area which is recognized as a village in the revenue accounts of Government after excluding therefrom the areas, if any, included in—

(a) the City of Madras including Fort St. George with the glacis;

(b) municipalities constituted under the Madras District Municipalities Act, 1920; and

(c) cantonments constituted under the Cantonments Act, 1924;

(21) 'Scheduled castes' shall have the same meaning as in the Government of India (Scheduled Castes) Order, 1936, as in force for the time being, in regard to the local area concerned;

(22) 'village' means any local area which is declared to be a village under this Act;

(23) 'water-course' includes any river, stream or channel, whether natural or artificial;

(24) 'year' means the financial year.

CHAPTER II.

CONSTITUTION, GOVERNMENT AND CONTROL OF PANCHAYATS.

Power to constitute and alter villages for purposes of the Act.

3. (1) The Collector, may by notification—

(a) declare any revenue village, or in special circumstances, a portion of a revenue village or two or more neighbouring revenue villages or portions thereof, or the whole of one or more such villages and portions of the other or others, to be a village for the purposes of this Act, and specify the name of such village; or

(b) exclude from a village any revenue village comprised therein or where only a portion of a revenue village is comprised in the village, such portion, or in special circumstances, a part of such revenue village or portion, or

(c) include in a village any portion of a revenue village of which some other portion is already comprised therein, or in special circumstances, any neighbouring revenue village or portion thereof, or

(d) cancel a notification issued under clause (a) or alter the name of the village as notified under that clause:

Provided that before issuing a notification under clause (b), clause (c) or clause (d), the Collector shall give the panchayat or panchayats which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanations and objections, if any, of such panchayat or panchayats.

(2) The Collector may pass such orders as he may deem fit—

(a) as to the disposal of the property vested in a panchayat which has ceased to exist, and

(b) as to the disposal of any part of the property vested in a panchayat which has ceased to exercise jurisdiction over any local area.

(3) Where the Collector passes an order under clause (a) of sub-section (2) vesting in a district board the property of a panchayat which has ceased to exist, the district board shall be subject to all the liabilities of the panchayat.

Constitution of panchayats for villages and their incorporation.

4. (1) A panchayat shall be constituted for each village with effect from a date specified in that behalf in the notification issued under clause (*a*) of sub-section (1) of section 3.

(2) Subject to the provisions of this Act, the administration of the village shall vest in the panchayat but the panchayat shall not be entitled to exercise functions expressly assigned by or under this Act or any other law to its president or executive authority, or to the district board or any other authority.

(3) Every panchayat shall be a body corporate by the name of the village specified in the notification issued under section 3, shall have perpetual succession and a common seal, and, subject to any restriction or qualification imposed by or under this Act or any other law, shall be vested with the capacity of suing or being sued in its corporate name, of acquiring, holding and transferring property, movable or immovable, of entering into contracts, and of doing all things necessary, proper or expedient for the purposes for which it is constituted.

Strength of a panchayat.

5. The total number of members of a panchayat shall be notified by the Collector in accordance with such scale as may be prescribed with reference to population:

Provided that such number shall not be less than five or more than fifteen.

Ex-officio and elected members and reservation of seats.

6. (1) The headman of every revenue village the whole or any portion of which is comprised within the jurisdiction of a panchayat shall *ex officio* be a member thereof; and the other members of the panchayat shall, save as otherwise expressly provided in this Act, be elected in such manner as may be prescribed.

(2) In every panchayat, the Collector may in his discretion reserve such number of seats if any, as he thinks fit for—

(*a*) Muslims,
(*b*) Indian Christians,
(*c*) Members of the Scheduled Castes,
(*d*) Europeans, and
(*e*) Anglo-Indians.

(3) In reserving seats in a panchayat for any community, the Collector shall have due regard to its importance and numerical strength in the village.

(4) Nothing contained in sub-section (2) shall be deemed to prevent members of any community for whom seats have been reserved in any panchayat from standing for election to the non-reserved seats in the panchayat.

Division into wards and method of election.

7. (1) For the purpose of electing members to a panchayat, the Collector, after consulting the panchayat, may by notification—

(*a*) divide the village into wards, provided that every revenue village or portion thereof comprised in the village shall, if inhabited, be a ward or be divided into wards;

(*b*) determine the wards in which the seats reserved under sub-section (2) of section 6 for any community shall be set apart;

(*c*) determine the number of members (whether one or more) which the wards referred to in clause (*b*) shall, in addition to the members for such reserved seats, return for non-reserved seats in the panchayat;

(*d*) determine the number of members (whether one or more) which each of the other wards shall elect to the panchayat.

(2) All the electors of a ward, irrespective of their community, shall be entitled to vote at an election to any seat in that ward, whether reserved or not.

(3) Where a village is not divided into wards, all the electors of the village, irrespective of their community, shall be entitled to vote at any election to any seat in the panchayat, whether reserved or not.

Term of office of elected members.

8. (1) The term of office of the members of every panchayat who are elected at ordinary elections shall, save as otherwise expressly provided in, or may be prescribed under, this Act, be three years beginning at noon on the day on which the vacancies occur:

Provided that the Collector may, by notification, for sufficient cause which shall be stated therein direct that the term of office of the members of any panchayat as a whole be extended or reduced by such period not exceeding three months as may be specified in the notification.

(2) Ordinary vacancies in the office of a member of a panchayat shall be filled at ordinary elections which shall be fixed by the election authority to take place on such day or days within three months before the occurrence of the vacancies, as he thinks fit:

Provided that the Government may for sufficient cause direct or permit the holding of any ordinary election after the occurrence of the vacancy.

(3) (a) Every casual vacancy in the office of a member of a panchayat shall be reported by the executive authority to the election authority within such time as may be prescribed.

(b) a member elected in a casual vacancy shall enter upon office forthwith, but shall hold office only so long as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(c) Unless the Collector otherwise directs, no casual election shall be held to a panchayat within three months before the date of retirement of its members by efflux of time.

(4) Where the number of members of a panchayat is increased, the members elected for the additional seats or the members elected in their places in casual vacancies shall hold office until the date on which the members elected to the original seats at the ordinary elections immediately preceding, will vacate office.

Appointment of members in certain cases and their term of office.

9. (1) If at an ordinary or casual election, no person is elected to fill the vacancy or one or more of the vacancies, as the case may be, the Collector may appoint a qualified person or persons to fill such vacancy or vacancies.

(2) In case the Collector is satisfied that an ordinary or casual election cannot be successfully held on account of faction or disorder in the village or any other cause, he may, notwithstanding anything contained in this Act, appoint a qualified person or persons to fill the vacancy or vacancies. In the case aforesaid, the Collector shall also have power to direct such reduction in the total number of members of the panchayat as he thinks necessary, notwithstanding anything contained in section 5.

(3) The term of office of a member of a panchayat appointed under sub-section (1) or sub-section (2) shall, unless the Collector otherwise directs, expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

Preparation and publication of electoral roll and qualifications for inclusion therein.

10. (1) An electoral roll for each panchayat showing the names of persons qualified to vote at elections thereto, shall be prepared and published, and shall be revised, at such times, by such authority, and in such manner as may be prescribed.

(2) Every person whose name is included in that part of the electoral roll for any territorial or special constituency of the Madras Legislative Assembly which relates to the village or any portion thereof shall be entitled to be included in the electoral roll for the panchayat, and no other person shall be entitled to be incuded therein.

Explanation (1).—Where in the electoral roll of any territorial or special constituency of the Madras Legislative Assembly, there is no distinct part relating to the village, the names of all persons who are entered in such roll under the registration area comprising such village and whose addresses as entered in such roll are situated in such village, shall be entitled to be included in the electoral roll for the panchayat.

Explanation (2).—In this sub-section, the expressions "territorial constituency" and "special constituency" shall have the same meaning as in the Government of India (Provincial Legislative Assemblies) Order, 1936, as in force for the time being.

(3) No person's name shall be included in the electoral roll for a panchayat in more than one place.

(4) When a village has been divided into wards, the electoral roll for the panchayat shall be divided into separate parts for each ward.

(5) Every person whose name appears in the electoral roll for the panchayat shall, so long as it remains in force and subject to any revision thereof which might have taken place and subject also to the other provisions of this Act, be entitled to vote at an election; and no person whose name does not appear in such roll shall vote at an election:

Provided that a person who is of unsound mind, a deaf-mute or a leper, shall not be entitled to vote at any election.

Qualification of candidates.

11. No person shall be qualified for election to any seat on a panchayat unless his name appears on its electoral roll.

Disqualification of Government officers and servants.

12. No officer or servant of the Government including karnams and village servants shall, save as otherwise may be prescribed, be qualified for election, as a member or for holding office as an elected member:

Provided that if any question arises either before or after an election whether any person is or is not disqualified under this section, the question shall be referred to the Government whose decision shall be final.

Explanation.—Nothing contained in this section shall be deemed to prevent the appointment of any officer or servant of the Government other than a karnam or village servant, to be a member of a panchayat.

Disqualification of persons convicted of election offences.

13. Every person convicted of an offence punishable under Chapter IX-A of the Indian Penal Code or under any law or rule relating to the infringement of the secrecy of an election, shall be disqualified from voting or from being elected in any election to which this Act applies or from holding the office of member of a panchayat, for a period of five years from the date of his conviction or for such shorter period as the Court may by order determine.

Disqualifications of candidates.

14. (1) A person who has been sentenced by a Criminal Court to transportation or to imprisonment for a period of more than six months for any offence other than an offence of a political character or an offence not involving moral delinquency (such sentence not having been reversed or the offence pardoned), shall be disqualified for election or appointment as a member while undergoing the sentence and for five years from the date of the expiration thereof:

Provided that the Government may direct that such sentence shall not operate as a disqualification.

(2) A person shall be disqualified for election or appointment as a member if such person is at the date of nomination, election or appointment—

(a) of unsound mind, a deaf-mute or a leper;

(b) an applicant to be adjudicated an insolvent or an undischarged insolvent;

(c) interested in a subsisting contract made with, or any work being done for, the panchayat, except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

(d) employed as paid legal practitioner on behalf of the panchayat or as legal practitioner against the panchayat;

(e) an officer or servant of the panchayat;

(f) an honorary Magistrate with jurisdiction over any part of the village;

(g) already a member of the panchayat whose term of office will not expire before his fresh election or appointment can take effect or has already been elected or appointed a member of the panchayat whose term of office has not yet commenced;

(h) the servant or employer or the official subordinate or official superior of a member holding office at the said date; or

(i) in arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat up to and inclusive of the previous year, in respect of which a bill or notice has been duly served upon him and the time, if any, specified therein for payment has expired.

Disqualifications of members.

15. (1) Subject to the provisions of section 16, a member shall cease to hold office as such if he—

(a) is sentenced by a Criminal Court to such punishment and for such offence as is described in sub-section (1) of section 14;

(b) becomes of unsound mind, a deaf-mute, or a leper;

(c) applies to be adjudicated, or is adjudicated, an insolvent;

(d) acquires any interest in any subsisting contract made with, or work being done for, the panchayat except as a shareholder (other than a director) in a company or except as permitted by rules made under this Act;

(e) is employed as paid legal practitioner on behalf of the panchayat or accepts employment as legal practitioner against the panchayat;

(f) is appointed as an officer or servant under this Act;

(g) is appointed as an honorary Magistrate with jurisdiction over any part of the village;

(h) accepts employment under or becomes the official subordinate of any other member;

(i) ceases to reside in the village;

(j) fails to pay arrears of any kind due by him (otherwise than in a fiduciary capacity) to the panchayat within three months after a bill or notice has been served upon him in pursuance of rules made under this Act, or where in the case of any arrear, such rules do not require the service of any bill or notice, within three months after a notice requiring payment of the arrear (which notice it shall be the duty of the executive authority of the panchayat to serve at the earliest possible date) has been duly served upon him by the executive authority; or

(k) absents himself from the meetings of the panchayat for a period of three consecutive months reckoned from the date of the commencement of his term of office, or of the last meeting which he attended, or of his restoration to office as member under sub-section (4), as the case may be, or if within the said period, less than three meetings have been held, absents himself from three consecutive meetings held after the said date:

Provided that no meeting from which a member absents himself shall be counted against him under this clause if due notice of that meeting was not given to him.

Explanation.—A meeting held for the transaction of urgent business after giving shorter notice than that prescribed for an ordinary meeting or on a requisition of the members of the panchayat shall not be deemed to be a meeting within the meaning of this clause.

(2) Notwithstanding anything contained in clause (*a*) of sub-section (1), the Government may direct that such sentence shall not operate as a disqualification.

(3) Where a person ceases to be a member under section 13 or clause (*a*) of sub-section (1), he shall be restored to office for such portion of the period for which he was elected as may remain unexpired at the date of such restoration, if and when the sentence is annulled on appeal or revision, or the disqualification caused by the sentence is removed by an order of the Government; and any person elected or appointed to fill the vacancy in the interim shall, on such restoration, vacate office.

(4) Where a person ceases to be a member under clause (*h*) of sub-section (1), the executive authority shall at once intimate the fact in writing to such person and report the same to the panchayat at its next meeting. If such person applies for restoration *suo motu* to the panchayat on or before the date of its next meeting or within fifteen days of the receipt by him of such intimation, the panchayat may at the meeting next after the receipt of such application restore him to his office of member:

Provided that a member shall not be so restored more than twice during his term of office.

Authority to decide questions of disqualification of members.

16. (1) Whenever it is alleged that any person who has been elected as member of a panchayat is not qualified or has become disqualified under section 11, 13, 14 or 15 and such person does not admit the allegation, or whenever any member is himself in doubt whether or not he has become disqualified for office under section 13 or 15, such member or any other member may, and the executive authority shall on the direction of the panchayat or of the Collector, apply to the prescribed judicial authority whose decision shall be final.

(2) Pending such decision, the member shall be entitled to act as if he were not disqualified.

President and vice-president.

President and vice-president of a panchayat and their term of office.

17. (1) Every panchayat shall elect one of its members to be its president and another member to be its vice-president.

If at an election held under this sub-section no president or vice-president is elected, a fresh election shall be held.

(2) The president or vice-president shall cease to hold office as such—

(*a*) in every case, on the expiry of his term of office as a member or on his otherwise ceasing to be a member, or on his election as president or vice-president of the district board or of any other panchayat in the district;

(*b*) in the case of the vice-president, on his election as president, and

(*c*) in case the president or vice-president is an *ex officio* member, on the date on which the term of office of the other members will expire by efflux of time.

Functions of the president.

18. The president shall—

(*a*) make arrangements for the election of the vice-president;

(*b*) convene the meetings of the panchayat;

(*c*) have full access to the records of the panchayat;

(*d*) discharge all the duties and exercise all the powers specifically imposed or conferred on the president by this Act.

Devolution and delegation of president's functions and filling up of vacancies in the office of president.

19. (1) When the office of president is vacant, the vice-president shall exercise the functions of the president until a new president is declared elected.

(2) If the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, his functions during such absence or incapacity shall, except in such circumstances as may be prescribed, devolve on the vice-president.

(3) When the office of president is vacant or the president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, and there is either a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated the functions of the president shall devolve on the village headman, or if more than one village headman is a member of the panchayat, on the headman of the revenue village in which the office of the panchayat is situated, or if the village headman on whom the president's functions would have so devolved was himself the president or vice-president, on a member of the panchayat appointed by the Collector in this behalf.

The village headman or member of the panchayat so appointed (who shall be styled the temporary president) shall perform the functions of the president subject to such restrictions and conditions as may be prescribed, until a new president or vice-president is declared elected and assumes office, or either the president or the vice-president returns to jurisdiction or recovers from his incapacity, as the case may be.

(4) Any vacancy in the office of president shall be reported to the election authority, by such person and within such time as may be prescribed and the election authority shall appoint a person, not being a member of the panchayat, to convene a meeting of the panchayat for the election of its president. The person so appointed shall preside at the meeting so convened and have all the powers of the president in relation thereto, except that he shall not have the right to vote at the election.

(5) Subject to such rules as may be prescribed, the president may, by an order in writing, delegate any of his functions, with such restrictions, and conditions as may be specified in the order, to the vice-president, or in case there is a vacancy in the office of vice-president or the vice-president has been continuously absent from jurisdiction for more than fifteen days or is incapacitated, to any member.

(6) The reference to the president's functions in sub-sections (1), (2) (3) and (5) shall, where he is also the executive authority, be deemed to include a reference to his functions as executive authority.

(7) The president shall have power to control and revise the exercise or discharge of any functions devolving on the vice-president under sub-section (2) or delegated to the vice-president or any member under sub-section (5).

Colector to authorise any member to exercise powers and discharge duties of president or vice-president in certain cases.

20. If at any time it appears to the Colector that the president or the vice-president, as the case may be, is for any reason not likely to exercise or discharge all or any of the powers and duties conferred, imposed or devolving on or delegated to him by or under this Act, then, notwithstanding anything contained in this Act or in the rules or notifications contained thereunder the Collector may, by order in writing, authorize any member other than the president or the vice-president, as the case may be, to exercise and discharge all the powers and dutis of the president or the vice-pdesident, as the case may be, for such period as may be specified in the order.

Members.

Rights of individual members.

21. (1) Any member may call the attention of the executive authority to any neglect in the execution of panchayat work, to any waste of panchayat property or to the wants of any locality, and may suggest any improvements which may appear desirable.

(2) Every member shall have the right to move resolutions and to interpellate the president on matters connected with the administration of the panchayat, subject to such rules as may be prescribed.

(3) Every member shall have access during office hours to the records of the panchayat after giving due notice to the executive authority, provided that the executive authority may, for reasons given in writing, forbid such access.

No member to receive remuneration.

22. No member shall receive or be paid from the funds at the disposal of or under the control of the panchayat, any salary or other remuneration for services rendered by him in any capacity whatsoever.

The executive officer.

Appointment of executive officers for certain panchayats.

23. (1) A wholetime executive officer shall be appointed by the Government for any panchayat which may be notified by them in this behalf.

(2) In the case of any panchayat notified under sub-section (1), if there is no executive officer, in charbe, the president of the panchayat shall, subject to such rules as may be prescribed, perform the functions of the executive officer.

(3) Save as otherwise prescribed, no executive officer appointed under sub-section (1) shall undertake any work unconnected with his office without the sanction of the Government.

(4) The panchayat shall pay the executive officer such salary and allowances as may from time to time be fixed by the Government.

(5) The panchayat shall also make—

(a) if the executive officer is in the service of the Crown, such contribution towards his leave allowances, pension and provident fund as may be required by the conditions of his service under the Crown to be made by him or on his behalf;

(b) if the executive officer is not in the service of the Crown, such contribution towards his leave allowances, pension and provident fund as may be prescribed in this behalf.

(6) The Government shall have power to regulate the classification, methods of recruitment, conditions of service, pay and allowances, and discipline and conduct of the executive officers appointed under sub-section (1).

Functions of executive officer.

24. The executive officer shall—

(a) have the right to attend the meetings of the panchayat or of any committee thereof and take part in the discussions thereat but without the right to move any resolution or to vote;

(b) attend any meeting of the panchayat or of any committee thereof if required to do so by the president.

Powers and duties of the executive authority.

Functions of the executive authority.

25. The executive authority shall—

(a) carry into effect the resolutions of the panchayat;

(b) control all the officers and servants of the panchayat;

(c) discharge all the duties and exercise all the powers specifically imposed or conferred on the executive authority by or under this Act and subject to all restrictions and conditions imposed by or under this Act, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes thereof.

Emergency powers of executive authority.

26. The executive authority may in cases of emergency direct the execution of any work or the doing of any act which requires the sanction of the panchayat and the immediate execution or doing of which is, in his opinion, necessary for the safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the panchayat fund:

Provided that—

(a) he shall not act under this section in contravention of any order of the panchayat prohibiting the execution of any particular work or the doing of any particular act, and

(b) he shall report the action taken under this section and the reasons therefor to the panchayat at its next meeting.

Exercise of functions of executive authority by Health Officer in certain cases.

27. The Collector may, by general or special order, authorise the Health Officer of a panchayat, or if there is no such officer, the Health Officer of the district, to exercise such of the functions of an executive authority under this Act in such area and subject to such restrictions and conditions and to such control and revision as may be specified in such order.

Delegation of functions of executive authority.

28. Subject to such restrictions and control as may be prescribed, the executive authority may, by an order in writing, delegate any of his functions to any officer or servant of the panchayat or to any servant of the Crown. The exercise or discharge of any functions so delegated shall be subject to such restrictions and conditions as may be laid down by the executive authority and shall also be subject to his control and revision.

Establishment.

Officers and servants of panchayats.

29. (1) The Registrar-General shall fix, and may alter, the number, designations and grades of, and the salaries, fees and allowances payable to, the officers and servants of every panchayat, other than the executive officer:

Provided that in an emergency, the executive authority may, subject to such rules as may be prescribed, employ temporarily additional officers and servants.

(2) The Government shall have power to make rules regarding the authorities who may appoint the officers and servants of panchayats, other than the executive officers, and the classification, methods of recruitment, pay and allowances, discipline and conduct, and conditions of service of such officers and servants.

Such rules may constitute any class of officers or servants of panchayats other than the executive officers into a separate service for the whole of the Province.

(3) Two or more panchayats may, subject to such rules as may be prescribed, and shall if so required by any authority empowered in this behalf by rules, appoint the same officer or servant to exercise or discharge any powers or duties of a similar nature for both or all of them.

(4) Notwithstanding anything contained in this Act, the Madras District Municipalities Act, 1920, or the Madras District Boards Act, 1920, any officer or servant of a panchayat may be transferred—

(i) to the service of any other panchayat in the same revenue district, by the Collector;

(ii) to the service of any other panchayat in another revenue district, by the Registrar-General;

(iii) to the service of any district board constituted under the Madras District Boards Act, 1920, or of any municipality constituted under the Madras District Municipalities Act, 1920, by the Government:

Provided that no officer or servant (other than the executive officer) shall be so transferred except aftr consulting—

(a) in cases falling under clauses (i) and (ii) of this sub-section, the executive authorities of the panchayats concerned; and

(b) in cases falling under clause (iii) of this sub-section, the district board or municipal council concerned and the execetive authority of the panchayat.

Any authority making a transfer under this sub-section may issue such general or special directions as may in its opinion be necessary for the purpose of giving due effect to such transfer.

(5) The Collector may recover from a panchayat the whole or such proportion of the salary and allowances paid to any officer or servant of the panchayat other than the executive officer, and such contribution towards his leave allowances, pension and provident fund, as the Government may by general or special order determine, in the following cases, namely:—

(a) where such officer or servant was appointed to the service of the panchayat by the Government; and

(b) where such officer, or servant is a servant of the Crown employed in connexion with the affairs of the Province.

(6) All officers and servants of the panchayat shall be subordinate to the executive authority, and save as otherwise provided in this Act or in the rules made thereunder and subject to such restrictions and control as may be prescribed in such rules, the executive authority may—

(a) appoint all officers and servants of the panchayat;

(b) grant leave to any such officer or servant; and

(c) censure, fine, withhold promotion from, reduce, suspend, remove or dismiss any such officer or servant, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

(7) The provisions of this section shall also apply to the public health establishments of panchayats, notwithstanding anything contained in the Madras Public Health Act, 1939.

Procedure.

Presidency at meetings.

30 (1) Every meeting of a panchayat shall be presided over by the president; in his absence, by the vice-president; and in the absence of both the president and the vice-president, by a member chosen by the meeting to preside for the occasion.

(2) The president shall preserve order and decide all points of order arising at or in connexion with meetings. There shall be no discussion on any point of order and the decision of the president on any point of order shall, save as otherwise expressly provided in this Act, be final.

(3) A vice-president or member presiding for the occasion shall, for that meeting and during the period that he presides over it, have all the powers of the president.

Minutes of proceedings.

31. A copy of the minutes of the proceedings at every meeting of a panchayat as well as of all minutes of dissent in respect of such proceedings received from any member present at the meeting within 48 hours of the close thereof shall be submitted by the president within three days of the date of the meeting to the Collector:

Provided that the Collector may direct that such minutes shall be submitted either generally or in any specified classes of cases to any officer empowered by him in this behalf.

Power of panchayat to call for records.

32. A panchayat may require the executive authority to produce any document which is in his custody and he shall, subject to such rules as may be prescribed, comply with every such requisition.

Proceedings of panchayats and committees.

33. (1) The proceedings of every panchayat and of all committees thereof shall be governed by such rules as may be prescribed and by regulations, not inconsistent with such rules or the provisions of this Act, made by the panchayat with the approval of the Collector.

(2) The Collector shall have power to add to, omit, or alter any regulations submitted for his approval under sub-section (1).

(3) The rules referred to in sub-section (1) may provide for preventing any member or president or any member or chairman of a committee from voting on, or taking part in the discussion of, any matter in which apart from its general application to the public, he has any direct or indirect pecuniary interest, whether by himself or through some other

person, or from being present or presiding at any meeting of the panchayat or of the committee during the discussion of any such matter.

Appointment of joint committees.

34. (1) A panchayat may, and if so required by the authority hereinafter mentioned in this sub-section shall, join with one, or more than one, other local authority in constituting a joint committee for any purpose for which they are jointly responsible.

The authority aforesaid shall be the Collector in case the other local authority or all the other local authorities are panchayats in the same revenue district, and the Government in other cases.

(2) The constitution, powers and procedure of a joint committee and the method of settling differences of opinion arising in connexion with the committee between the local authorities concerned shall be in accordance with such rules as may be prescribed.

Administration report.

35. (1) Every panchayat shall submit to the Collector a report on its administration for each year as soon as may be after the close of such year and not later than the prescribed date, in such form, with such details, and through such authority as may be prescribed.

(2) The report shall be prepared by the executive authority and the panchayat shall consider it and forward the same to the Collector with its resolutions thereon, if any.

(3) The Collector shall submit to the Registrar-General a consolidated review of the annual administration reports of all the panchayats in his district, and the Registrar-General shall submit to the Government a general report on the administration of panchayats in the Province during the year.

Validation of proceedings.

Acts of panchayats, etc., not to be invalidated by informality, vacancy, etc.

36. No act of a panchayat or of a committee thereof or of any person acting as president, vice-president, chairman or member of such panchayat or committee shall be deemed to be invalid by reason only of a defect in the establishment of such panchayat or committee, or on the ground that the president, vice-president, chairman or any member of such panchayat or committee was not entitled to hold or continue in such office by reason of any disqualification or by reason of any irregularity or illegality in his election or appointment, or by reason of such act having been done during the period of any vacancy in the office of president, vice-president, chairman or member of such panchayat or committee.

Control.

Inspecting and superintending officers and their and the Government's powers.

37. (1) (a) The Government may appoint a person to be the Registrar-General of Panchayats on such salary and with such establishment as they think fit.

(b) The Government may also appoint such other officers as may be required for the purpose of inspecting or superintending the operations of all or any of the panchayats established under this Act.

(c) In particular and without prejudice to the generality of the foregoing provision, the Government may appoint a District Panchayat Officer and one or more Assistant Panchayat Officers for each revenue district.

(2) The Government shall have power to regulate the classification, methods of recruitment, conditions of service, pay and allowances and discipline and conduct of the officers and the members of the establishment, referred to in sub-section (1).

(3) The cost of the officers and the members of the establishment aforesaid shall be paid out of the revenues of the Province.

(4) (a) The Registrar-General shall supervise the administration of all panchayats in the Province and shall also exercise the powers and perform the duties vested in him by or under this Act.

(b) The Collector shall, subject to the control of the Registrar-General, supervise the administration of all panchayats in his district.

(c) The District and the Assistant Panchayat Officers shall exercise such powers and perform such duties as may be prescribed, or as may be delegated to them under this Act.

(5) Any officer appointed under sub-section (1) or any other officer or person whom the Government, the Registrar-General or the Collector may empower in this behalf, may enter on and inspect, or cause to be entered on and inspected—

(a) any immovable property, or any work in progress, under the control of any panchayat or executive officer;

(b) any school, hospital, dispensary, vaccination station, choultry or other institution maintained by, or under the control of, any panchayat and any records, registers or other documents kept in such institution;

(c) the office of any panchayat and any records, registers or other documents kept therein.

Panchayats and their presidents, officers and servants shall be bound to afford to the officers and persons aforesaid, such access, at all reasonable times, to panchayat pro-

party or premises and to all documents as may, in the opinion of such officers or persons, subject to such rules as may be prescribed, be necessary to enable them to discharge their duties under this section.

(6) The Collector or any officer or person whom the Government, the Registrar-General or the Collector may empower in this behalf may—

(a) direct the panchayat to make provision for and to execute or provide any public work or amenity, or service of the description referred to in section 45;

(b) call for any record, register or other document in the possession, or under the control, of any panchayat, or executive authority;

(c) require any panchayat, or executive authority to furnish any return, plan, estimate, statement, account or statistics;

(d) require any panchayat, or executive authority to furnish any information or report on any matter connected with such panchayat;

(e) record in writing for the consideration of any panchayat, or executive authority any observations in regard to its or his proceedings or duties.

Power to suspend or cancel resolution, etc., under Act.

38. (1) The Collector may, by order in writing—

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act if, in his opinion—

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorized, or

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Collector to be otherwise undesirable, or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Collector to set aside any election which has been held.

(2) The Collector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

Emergency powers of Collector.

39. Subject to such control as may be prescribed, the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a panchayat or executive authority empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the safety of the public, and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the panchayat fund in priority to any other charge against such fund except charges for the service of authorized loans.

Control over electrical undertakings of panchayats.

40. The administration by a panchayat of any undertaking for the generation, transmission, supply or use of electrical energy shall be subject to such control as may be prescribed, not inconsistent with the Indian Electricity Act, 1910, as in force for the time being, the rules made under that Act, and the terms of the licence granted under it to the panchayat.

Power to take action in default of a panchayat, president or executive authority.

41. (1) If at any time it appears to the Collector that a panchayat, president or executive authority has made default in performing any duty imposed by or under this or any other Act, he may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Collector may appoint some person to perform it, and may direct that the expense of performing it shall be paid by the person having the custody of the panchayat fund in priority to any other charges against such fund except charges for the service of authorised loans.

Removal of president, vice-president or member.

42. (1) The Collector may, by notification and with effect from a date to be specified therein, remove any president or vice-president who, in his opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, by-laws, regulations or lawful orders issued thereunder, or abuses the powers vested in him.

(2) The Collector may, by notification and with effect from a date to be specified therein, remove any member who, in his opinion, is guilty of any misconduct in the discharge of his duties as such member.

(3) The Collector shall, when he proposes to take action under sub-section (1) or (2), give the president, vice-president or member concerned an opportunity for explanation, and the notification issued shall contain a statement of the reasons for the action taken.

(4) The Government shall have power to cancel any notification issued under sub-section (1) or (2) and may, pending a decision on the question of such cancellation, postpone the date specified in such notification.

(5) Any person in respect of whom a notification has been issued under sub-section (1) or (2), removing him from the office of president, vice-president or member shall, unless the notification is cancelled under sub-section (4), be ineligible for election or appointment to, or holding, any of those offices, until the date on which notice of the next ordinary elections to the panchayat is published in the prescribed manner, or the expiry of six months from the date specified in such notification as postponed by the order, if any, issued under sub-section (4), whichever is earlier.

Dissolution and supersession of panchayats.

43. (1) If, in the opinion of the Government, a panchayat is not competent to perform or persistently makes default in performing the duties imposed on it by law, or exceeds or abuses its powers, they may, by notification—

(a) direct that the panchayat be dissolved with effect from a specified date and reconstituted either immediately or with effect from another specified date, or

(b) supersede the panchayat for a period not exceeding two years from a specified date:

Provided that the Government shall not supersede a portion only of the panchayat.

(2) Before publishing a notification under sub-section (1), the Government shall communicate to the panchayat the grounds on which they propose to do so, fix a reasonable period for the panchayat to show cause against the proposal, and consider its explanations and objections, if any.

(3) On the date fixed for the dissolution or supersession of a panchayat under sub-section (1), all its members as well as its president and vice-president shall forthwith be deemed to have vacated their offices as such.

(4) During the interval, if any, between the dissolution and the reconstitution of a panchayat or during the period of its supersession, as the case may be, all or any of the powers and duties of the panchayat and of its president including where the president is also the executive authority, his powers and duties as such may be exercised and discharged, as far as may be and to such extent as the Government may determine, by such person or persons as may be appointed by the Government in that behalf. Any person other than the executive officer who is so appointed may, if the Government so direct, receive payment for his services from the panchayat.

(5) The members of a reconstituted panchayat shall enter upon their offices on the date fixed for its reconstitution, and their term of office shall expire in such year and on such date as the Government may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held for any panchayat in the same district. The date so fixed shall not be later than the 31st day of December.

(6) When a panchayat is dissolved or superseded under this section, the Government until the date of the reconstitution thereof, and the reconstituted panchayat thereafter, shall be entitled to all the assets and be subject to all the liabilities of the panchayat as on the date of the dissolution or supersession and on the date of the reconstitution respectively.

(7) The Government may, by order, for sufficient cause which shall be specified therein, direct—

(a) that the members of a reconstituted panchayat (other than the ex-officio members) shall, until the date fixed under sub-section (5), be appointed by the Government and not elected; and

(b) that members shall continue to be appointed after the date so fixed, for further periods of three years at a time.

(8) It shall be open to the Government, notwithstanding anything contained in section 5, to direct such reduction in the total number of members of the panchayat as they think necessary, so long as the members of the panchayat are appointed under sub-section (7) and not elected.

Powers of officers acting for, or in default of, panchayat and liability of panchayat fund.

44. The Government, the Registrar-General, the Collector, or any person appointed by the Government, the Registrar-General, or the Collector, lawfully taking action on behalf, or in default, of a panchayat under this Act, shall have all such powers as are necessary for the purpose, and shall be entitled to the same protection under this Act, as the panchayat or its officers or servants whose powers are exercised; and compensation shall be recoverable from the panchayat fund by any person suffering damage from the exercise of such powers to the same extent as if the action had been taken by such panchayat or its officers or servants.

CHAPTER III.

FUNCTIONS, POWERS AND PROPERTY OF PANCHAYATS.

Duty of panchayat to provide for certain matters.

45. Subject to such rules as may be prescribed, it shall be the duty of a panchayat, within the limits of its funds, to make reasonable provision for carrying out the requirements of the village in respect of the following matters, namely:—

(a) the construction, repair and maintenance of all public roads in the village (other than district roads) and of all bridges, culverts, road-dams and causeways on such roads;

(b) the lighting of public roads and public places;

(c) the construction of drains and the disposal of drainage water and sullage;

(d) the cleansing of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in of disused wells, insanitary ponds, pools, ditches, pits or hollows, and other improvements of the sanitary condition of the village;

(e) the provision of public latrines and arrangements to cleanse latrines whether public or private;

(f) the opening and maintenance of burial and burning grounds;

(g) the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks for supply of water for drinking, washing and bathing purposes, and the construction and maintenance of water-works;

(h) preventive and remedial measures connected with any epidemic, or with malaria, which may be ordered by the Government to be carried out by the panchayat.

Power of panchayat to provide for certain other matters.

46. Subject to such rules as may be prescribed, a panchayat may also make such provision as it thinks fit for carrying out the requirements of the village in respect of the following matters, namely:—

(a) the planting and preservation of trees on the sides of public roads in the village not being roads classified as district roads;

(b) the opening and maintenance of public markets other than markets which are classified as district markets;

(c) the control of fairs and festivals other than those classified as district fairs and festivals;

(d) the opening and maintenance of public landing places, halting places and cart-stands and of public cattle-sheds;

(e) the opening and maintenance of public slaughter-houses;

(f) the establishment and maintenance of choultries other than those classified as district choultries;

(g) the control of village buildings and other property belonging to the villagers in common;

(h) the extension of village-sites and the regulation of building;

(i) the control of threshing floors, topes and other porambokes used by the villagers in common;

(j) the registration of births and deaths;

(k) improvements of agriculture and agricultural stock and the holding of agricultural shows;

(l) the promotion and encouragement of cottage industries;

(m) the opening and maintenance of elementary schools;

(n) the opening and maintenance of reading rooms and of libraries which are not classified as district libraries;

(o) the establishment and maintenance of wireless receiving sets, playgrounds, sports clubs and centres of physical culture;

(p) the establishment and maintenance of dispensaries and the payment of subsidies to rural medical practitioners;

(q) the establishment and maintenance of maternity and child welfare centres;

(r) veterinary relief;

(e) other measures of public utility calculated to promote the safety, health, comfort or convenience of the inhabitants of the village.

Transfer to panchayats of village forests, irrigation works, and other institutions or works.

47. (1) The Board of Revenue may, subject to such conditions and the payment of such contribution, if any, by the panchayat as it may direct, transfer to any panchayat, the management, protection and maintenance of village forests, whether reserved for fuel and fodder or for other purposes.

(2) Subject to such conditions and control as may be prescribed, the Board of Revenue may transfer to any panchayat the protection and maintenance of any village irrigation work, the management of turns of irrigation, or the regulation of the distribution of water from any irrigation work to the fields depending on it.

(3) Subject to such rules as may be prescribed, the Government, the Board of Revenue the Collector or Revenue Divisional Officer, the district board or its executive authority, or any person or body of persons, may transfer to the panchayat, with its consent and subject to such conditions as may be agreed upon, the management of any institution, or the execution or maintenance of any work, or the exercise of any power or the discharge of any duty whether within or without the village, and whether provided for in this Act or not.

Explanation.—The duty of executing kudimaramat in respect of an irrigation source which is imposed on the village community by the Madras Compulsory Labour Act, 1858, may be transferred to a panchayat under this sub-section; but such transfer shall not be deemed to relieve the village community concerned or any of its members of its or his liability under the said Act, in case the panchayat to which the said duty is transferred makes default in the performance thereof.

Power of Board of Revenue to transfer or resume control of endowments and inams.

48. (1) (a) Subject to the control of the Government the Board of Revenue may, by notification, make over to a panchayat, with its consent, the management and superintendence of any charitable endowment in respect of which powers and duties attach to the Board of Revenue under the provisions of the Madras Endowments and Escheats Regulation, 1817; and thereupon all powers and duties attaching to the Board of Revenue in respect thereof shall attach to the panchayat as if it had been specially named in the said Regulation, and the panchayat shall manage and superintend such endowment.

(b) The Board of Revenue may of its own motion, and shall on a direction from the Government, by notification, resume the management and superintendence of any endowment made over to a panchayat under clause (a) and upon such resumption, all the powers and duties attaching to the panchayat in respect of the endowment shall cease and determine.

(2) The Government may assign to a panchayat with its consent, a charitable inam resumed by the Government or any other authority, provided that the net income from such inam can be applied exclusively to any purpose to which the funds of such panchayat may be applied; and may revoke any assignment so made.

Limitation of power to accepting property in trust.

49. A panchayat may accept trusts relating exclusively to the furtherance of any purpose to which its funds may be applied.

Vesting of public roads and their appurtenances in panchayats.

50. (1) All public roads in any village which are not vested in the district board, shall vest in the panchayat together with all pavements, stones and other materials thereof, all works, materials and other things provided therefor, all sewers, drains, drainage works, tunnels and culverts, whether made at the cost of the panchayat fund or otherwise, in, alongside or under such roads, and all works, materials and things appertaining thereto.

(2) The Collector after consulting the panchayat may, by notification, exclude from the operation of this Act any such public road, sewer, drain, drainage work, tunnel or culvert, and may also modify or cancel such notification.

Collected sewage, etc., to belong to panchayat.

51. All rubbish, sewage, filth and other matter collected by a panchayat under this Act shall belong to it.

Vesting of communal property or income in panchayat.

52. A panchayat may, with the approval of the Collector and subject to such conditions as he may impose, notify that any property or income shall vest in itself which by custom belongs to, or has been administered for the benefit of the villagers in common, or the holders in common of village land generally or of lands of a particular description or of lands under a particular source of irrigation; and thereupon such property or income shall vest in such panchayat and be administered by it for the benefit of the villagers or holders aforesaid:

Provided that before any application is made to the Collector for the approval of a notification proposed to be issued under this section, the panchayat shall publish in the prescribed manner its intention to do so and fix a reasonable period for persons interested, to show cause against its doing so and consider any objections or suggestions which may be received by it.

Panchayat to regulate the use of certain poramboke in ryotwari tracts.

53. (1) The provisions of this section shall apply only in ryotwari tracts.

(2) The panchayat shall have power, subject to such restrictions and control as may be prescribed, to regulate the use of the following porambokes, namely, grazing grounds, threshing floors, burning and burial grounds, cattle-stands, cart-stands, and topes, provided the porambokes are at the disposal of the Government.

(3) The Collector after consulting the panchayat, may, by notification, exclude from the operation of this Act any poramboke referred to in sub-section (2), and may also modify or cancel such notification.

(4) The panchayat shall also have power, subject to such restrictions and control as may be prescribed, to regulate the use of any other poramboke which is at the disposal of the Government, if the panchayat is authorized in that behalf by an order of the Government.

(5) The panchayat may, subject to such restrictions and control as may be prescribed, plant trees on any poramboke the use of which is regulated by it under sub-section (2) or sub-section (4).

Panchayat to regulate the use of certain communal lands in estates governed by the Madras Estates Land Act, 1908.

54. In estates governed by the Madras Estates Land Act, 1908, notwithstanding anything contained in that Act, the panchayat shall have power subject to such restrictions and control as may be prescribed—

(a) to regulate the use of lands which are set apart for any of the purposes referred to in sub-clause (b) of clause (16) of section 3 of the said Act, namely, threshing floors, cattle-stands, village-sites and other lands situated in the village which are set apart for the common use of the villagers;

(b) to exercise the power vested in the District Collector by section 20-A of the said Act, namely, to direct that any land referred to in clause (a) which is no longer required for its original purpose shall be used for any other specified communal purpose, provided that the sanction of the District Collector is obtained therefor; and

(c) to plant trees on any land the use of which is regulated by the panchayat under clause (a).

Nothing contained in clause (b) shall be deemed to affect in any way the operation of the proviso to sub-section (1) of the said section 20-A.

Immovable property required by panchayats may be acquired under the Land Acquisition Act, 1894.

55. Any immovable property which any panchayat is authorized by this Act to acquire may be acquired under the provisions of the Land Acquisition Act, 1894, and on payment of the compensation awarded under the said Act in respect of such property and of any other charges incurred in acquiring it, the said property shall vest in the panchayat.

CHAPTER IV.

Taxation and Finance.

Taxes which may be levied by panchayats.

56. (1) Every panchayat shall levy in the village both a house-tax and a vehicle tax.

(2) With the sanction of the Collector and subject to such restrictions and conditions, if any, as may be imposed by him either at the time of granting sanction or later, the panchayat may also levy in the village—

(a) a land-cess at the rate of three pies in the rupee on the annual rent value of all occupied lands;

(b) a tax on advertisements;

(c) subject to such rules as may be prescribed, any other tax or taxes which may be conveniently and suitably levied in the village.

(3) Nothing contained in this section shall be deemed to authorize a panchayat to levy any tax which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935.

House-tax.

57. (1) The house-tax referred to in section 56 (1) shall be levied on all houses in the village either on the basis of their annual value, or on the basis of their capital value, or on any other basis which may be prescribed.

(2) The house-tax shall, subject to the prior payment of the land revenue, if any, due to the Government on the house, be a first charge upon the house and upon the movable property, if any, found within or upon the same and belonging to the person liable to such tax.

(3) The house-tax shall be levied every half-year at such rates as may be fixed by the panchayat, not being less than the minimum rates and not exceeding the maximum rates, if any, prescribed in regard to the basis of levy adopted by the panchayat.

(4) The Government may make rules providing for—

(i) the exemption of specified classes of houses from the tax;

(ii) the manner of ascertaining the annual or capital value of houses or the categories into which they fall for the purposes of taxation;

(iii) the persons who shall be liable to pay the tax and the giving of notices of transfer of houses;

(iv) the grant of exemptions from the tax on the ground of poverty;

(v) the grant of vacancy and other remissions;

(vi) the circumstances in which, and the conditions subject to which, houses constructed, reconstructed or demolished, or situated in areas included in, or excluded from, the village, during any half-year, shall be liable or cease to be liable to the whole or any portion of the tax.

(5) If the occupier of a house pays the house-tax on behalf of the owner thereof, such occupier shall be entitled to recover the same from the owner and may deduct the same from the rent then or thereafter due by him to the owner.

Vehicle tax.

58. The vehicle tax referred to in section 56 (1) shall, subject to such exemptions and restrictions as may be prescribed, be levied every half-year on all vehicles kept or used within the village at such rates as may be fixed by the panchayat not being less than the minimum rates and not exceeding the maximum rates, if any, prescribed.

Explanation.—In this section, 'vehicle' means a conveyance suitable for use on roads and includes any kind of tramcar, carriage, cart, waggon, bicycle, tricycle, rickshaw and palanquin, but does not include a motor vehicle as defined in the Motor Vehicles Act, 1939.

Land-cess.

59. If a panchayat determines to levy a land-cess under section 56 (2) (a), such land-cess shall be levied on all occupied lands in the village on whatever tenure held, and it shall be deemed to be an addition to the land-cess levied in such village under the Madras District Boards Act, 1920, and all the provisions of that Act relating to the incidence, assessment or realization of land-cess or in any manner connected therewith shall, subject to any rules which may be prescribed, be applicable accordingly.

Tax on advertisements.

60. If a panchayat determines to levy a tax on advertisements under section 56 (2) (b), every person who in any manner displays any advertisement to public view within the village from any place whether public or private shall, subject to such exemptions and restrictions as may be prescribed, pay on every advertisement which is so displayed, a tax at the rates fixed by the panchayat but not exceeding the maximum rates, if any, prescribed in that behalf.

Power to exempt from taxes and write off irrecoverable amounts.

61. (1) The panchayat may, with the sanction of the Collector, exempt any person or class of persons wholly or in part from the payment of any tax.

(2) Subject to such restrictions and control as may be prescribed, a panchayat may write off any tax, fee or other amount whatsoever due to it, whether under a contract or otherwise, or any sum payable in connexion therewith, if in its opinion such tax, fee, amount or sum is irrecoverable:

Provided that where the Collector or any of his subordinates is responsible for the collection of any tax, fee or other amount due to a panchayat, the power to write off such tax, fee or amount or any sum payable in connexion therewith, on the ground of its being irrecoverable, shall be exercised by the Board of Revenue or subject to its control, by the Collector or any officer authorized by him.

Power to require village headmen to collect taxes and fees due to panchayats.

62. Subject to such rules as may be prescribed, the executive authority shall have power to require the village headman having jurisdiction over the village or any part thereof to collect any tax or fee due to the panchayat, from any person residing in such village or part, or arising from the ownership or occupation of any property situated in such village or part, on payment of such remuneration not exceeding 6-1|4 per cent. of the gross sum collected by the headman as the Collector may, by general or special order, determine.

Panchayat fund.

63. (1) All moneys received by the panchayat shall constitute a fund called the panchayat fund, and shall be applied and disposed of in accordance with the provisions of this Act and other laws:

Provided that the panchayat shall have power, subject to such rules as may be prescribed, to direct that the proceeds of any tax or additional tax levied under this Act shall be earmarked for the purpose of financing any specific public improvement. A separate account shall be kept of the receipts from every such tax or additional tax and the expenditure thereof.

(2) The receipts which shall be credited to the panchayat fund are—

(i) one-fourth of the land-cess levied in the village under section 78 of the Madras District Boards Act, 1920;

(ii) the house-tax, the vehicle tax and any other tax or taxes, levied under section 56 of this Act;

(iii) the pilgrim tax levied in the village under section 110 of the Madras District Boards Act, 1920, except where the occasion for pilgrimage is a festival classified as a district festival;

(iv) the taxes and tolls levied in the village under sections 117 and 118 of the Madras Public Health Act, 1939;

(v) the contribution paid by the district board on the scale fixed by the Government in respect of markets in the village classified as district markets and in respect of district board ferries;

(vi) fees for the temporary occupation of village sites, roads and other similar public places or parts thereof in the village;

(vii) fees levied by the panchayat in pursuance of any provision in this Act or any rule or order made thereunder;

(viii) the contribution, if any, paid by the district board on the scale fixed by the Government for the opening and maintenance of elementary schools in the village;

(ix) income from endowments and trusts under the management of the panchayat;

(x) the net assessment on service inams which are resumed by the Government after the commencement of this Act;

(xi) income from village fisheries and from ferries under the management of the panchayat;

(xii) unclaimed deposits and other forfeitures;

(xiii) a sum equivalent to the seigniorage fees collected by the Government every year from persons permitted to quarry for road materials in the village;

(xiv) all income derived from porambokes the user of which is vested in the panchayat;

(xv) where the village is in a ryotwari tract, all income derived from trees standing on porambokes although the user of the porambokes is not vested in the panchayat;

(xvi) income from leases of Government property obtained by the panchayat;

(xvii) a sum equivalent to nine-tenths of the gross income derived by the Government every year from fines imposed by Magistrates in respect of offences committed in the village under this Act or any rule or by-law made thereunder or any other provision of law which is prescribed in this behalf;

(xviii) all sums other than those enumerated above which arise out of, or are received in aid of or for expenditure on, any institutions or services maintained or financed from the panchayat fund or managed by the panchayat.

Expenditure from panchayat fund.

64. (1) The purposes to which the panchayat fund may be applied include all objects expressly declared obligatory or discretionary by this Act or any rules made thereunder or by any other laws or rules and the fund shall be applicable thereto within the village subject to such rules or special orders as the Government may prescribe or issue and shall, subject as aforesaid be applicable to such purposes outside the village if the expenditure is authorized by this Act or specially sanctioned by the Collector.

(2) (a) It shall be the duty of every panchayat to provide for the payment of—

(i) any amounts falling due on any loans contracted by it;

(ii) the election expenses including the cost of the preparation and revision of the electoral roll, the conduct of elections to the panchayat, and the maintenance of the election establishment;

Explanation.—The cost of maintenance of the election establishment shall include the pay, pension and leave allowances, if any, of the officers and servants of the Government or of any other authority, employed in the preparation and revision of the electoral roll and in the conduct of the elections;

(iii) the salaries and allowances and the pensions, pensionary contributions and provident fund contributions of its officers and servants;

(iv) sums due under any decree or order of a Court; and

(v) any other expenses rendered obligatory by or under this Act or any other law.

(b) The Government shall determine every year the amount of the election expenses referred to in sub-clause (ii) of clause (a) and their determination shall be final and binding on the panchayat. Such amount shall have priority over all other charges except charges for the service of authorised loans including the loans and advances referred to in section 68 and the expenses specified in sections 39 and 41 (2).

(3) A panchayat may, with the sanction of the Collector, contribute to the funds of any other panchayat in the district and with the sanction of the Government to the funds of the district board.

(4) A panchayat may, with the sanction of the Government, contribute to any fund for the defence of India or the Empire.

(5) A panchayat may, with the sanction of the Collector, also—

(i) contribute towards the expenses of any public exhibition, ceremony or entertainment in the village;

(ii) contribute to any charitable fund, or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the reception of diseased or infirm persons or the investigation of the causes of disease;

(iii) defray any other extraordinary charges.

Preparation and sanction of budgets.

65. (1) The executive authority shall in each year frame and place before the panchayat a budget showing the probable receipts and expenditure during the following year, and the panchayat shall sanction the budget with such modifications, if any, as it thinks fit.

(2) The budget of a panchayat shall, after being so sanctioned, be submitted on or before such date and to such officer as may be prescribed, and if he is satisfied that adequate provision has not been made therein for the performance of any necessary service or services, he shall have power to modify the budget in such manner as may be necessary to secure such provision.

(3) If, in the course of a year, a panchayat finds it necessary to alter the figures shown in the budget with regard to its receipts or to the distribution of the amounts to be expended on the different services it undertakes, a supplemental or revised budget may be framed, sanctioned, submitted and modified in the manner provided in sub-sections (1) and (2), provided that no such alteration shall be given effect to except with the consent of the prescribed officer.

Appointment of auditors.

66. The Government shall appoint auditors of the accounts of the receipts and expenditure of the panchayat fund. Such auditors shall be deemed to be "public servants" within the meaning of section 21 of the Indian Penal Code.

Contribution to expenditure by other local authorities.

67. If the expenditure incurred by the Government or by any other panchayat or the district board or by any other local authority in the Province for any purpose authorized by or under this Act, is such as to benefit the inhabitants of the village, the panchayat may with the sanction of the Collector, and shall if so directed by him, make a contribution towards such expenditure.

Recovery of loans and advances made by Government.

68. Notwithstanding anything contained in the Local Authorities Loans Act, 1914, the Government shall be entitled to recover in the manner provided by section 41 (2) of this Act, or by suit, any loan or advance made to any panchayat for any purpose to which its funds may be applied under this Act.

CHAPTER V.

PUBLIC SAFETY, CONVENIENCE AND HEALTH.

Public water-courses, springs, etc.

Vesting of waterworks in panchayats.

69. (1) All public water-courses, springs, reservoirs, tanks, cisterns, fountains, wells, stand-pipes and other water-works (including those used by the public to such an extent as to give a prescriptive right to their use) whether existing at the commencement of this Act or afterwards made, laid or erected, and whether made, laid or erected at the cost of the panchayat or otherwise, and also any adjacent land (not being private property) appertaining thereto, shall vest in the panchayat and be subject to its control:

Provided that nothing contained in this sub-section shall apply to any work which is, or is connected with, a work of irrigation or to any adjacent land appertaining to any such work.

(2) The Collector may, by notification, define or limit such control or may assume the administration of any public source of water-supply and public land adjacent and appertaining thereto after consulting the panchayat and giving due regard to its objections, if any.

Contributions for sanitary arrangements.

Contributions from persons having control over places of pilgrimage, etc.

70. Where a mosque, temple, mutt or any place of religious worship or instruction or any place which is used for holding fairs, festivals or for other like purposes is situated within the limits of a village or in the neighbourhood thereof and attracts either throughout the year or on particular occasions a large number of persons, any special arrangements necessary for public health, safety or convenience, whether permanent or temporary shall be made by the panchayat; but the Government may after consulting the trustee or other person having control over such place require him to make such recurring or non-recurring contribution to the funds of the panchayat as they may determine.

Roads.

Prohibition against obstructions in or over public roads, etc.

71. No person shall, except as permitted by rules made under this Act and except in accordance with the conditions imposed by any licence made requisite by such rules—

(a) build any wall or erect any fence or other obstruction or projection or make any encroachment whatsoever, whether permanent or temporary, in or over any public road;

(b) make any hole or deposit any matter in or upon any public road;

(c) work a quarry in or remove stone, earth or other material from any place within twenty yards of a public road or of other immovable property vesting in or belonging to a panchayat, provided that nothing in this clause shall be deemed to apply to any work which, in the opinion of the Collector, is done in connection with a *bona fide* agricultural operation;

(d) erect any building over any sewer or drain or any part thereof;

(e) plant any tree on any public road or other property vesting in or belonging to a panchayat; or

(f) fell, remove, destroy, lop or strip bark or leaves from, or otherwise damage, any tree which is growing on any such public road or other property or on any poramboke or land, the use of which is regulated by a panchayat under section 53 or section 54 and the right to which has not been established by such person as vesting in or belonging to him.

Markets.

Public markets.

72. (1) The panchayat may provide places for use as public markets and, with the sanction of the Collector, close any such market or part thereof.

(2) Subject to such rules as may be prescribed, the panchayat may levy any one or more of the following fees in any public market at such rates, not exceeding the maximum rates, if any, prescribed in that behalf as the panchayat may think fit:—

(a) fees for the use of, or for the right to expose goods for sale in such market;

(b) fees for the use of shops, stalls, pens or stands in such market;

(c) fees on vehicles (including motor vehicles as defined in the Motor Vehicles Act, 1939) or pack-animals bringing, or on persons carrying, any goods for sale in such market;

(d) fees on animals brought for sale into or sold in such market;

(e) licence fees on brokers, commission agents, weighmen and measurers practising their calling in such market.

Private markets.

73. (1) No person shall open a new private market or continue to keep open a private market, unless he obtains from the panchayat a licence to do so. Such licence shall be renewed every year.

(2) (a) The panchayat shall, as regards private markets already lawfully established, and may at its discretion as regards new private markets, grant the licence applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, sanitation and water-supply, weights and measures to be used, rents and fees to be charged, and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new private market.

(b) the panchayat may modify the conditions of the licence to take effect from a specified date.

(c) The panchayat may at any time suspend or cancel any licence granted under clause (a) for breach of the conditions thereof.

(d) Any person aggrieved by an order of the panchayat under clauses (a), (b) or (c) may appeal against such order to the Collector who may, if he thinks fit, suspend the execution of the order pending the disposal of the appeal.

(3) (a) Any person claiming to levy in a private market lawfully established prior to the coming into force of the Madras Local Boards Act, 1884, fees of the nature specified in sub-section (2) of section 72 shall apply to the Collector for a certificate recognising his right in that behalf; and the Collector shall pass orders on such application after giving due notice to the panchayat and considering any representations made by it.

(b) Any person aggrieved by an order of the Collector refusing to grant a certificate under clause (a) may, within six months from the date of such order, institute a suit to establish the right claimed by him, and subject to the result of such suit, the Collector's order shall be final.

(4) When a licence granted under sub-section (2) does not permit the levy of any fees, it shall be granted free of charge; but when such permission is given, a fee not exceeding 15 per cent. of the gross income of the owner from the market in the preceding year shall be charged by the panchayat for such licence.

(5) The panchayat or any officer duly authorized by it may close any private market which is unlicensed, or the licence for which has been suspended or cancelled, or which is held or kept open contrary to the provisions of this Act.

(6) The panchayat may acquire the rights of any person to hold a private market in any place and to levy fees therein. The acquisition shall be made under the Land Acquisition Act, 1894, and such rights shall be deemed to be land for the purposes of that Act.

(7) If any question arises as to whether any place is a market or not, the panchayat shall make a reference thereon to the Government and their decision shall be final.

Prohibition of sale in unlicensed private markets, etc.

74. No person shall sell or expose for sale any animal or article—

(a) in any public or licensed private market without the permission of the executive authority or licensee, as the case may be, or of any person authorised by him, or

(b) in any unlicensed private market.

Prohibition against sale in public roads.

75. The executive authority may, with the sanction of the panchayat, prohibit by public notice or licence or regulate the sale or exposure for sale of any animals or articles in or upon any public road or place or part thereof.

Classification of markets.

76. The Government shall have power to classify public and private markets situated in a village as district markets and panchayat markets and provide for the control of any such market, and for the apportionment of the income derived therefrom between the district board and the panchayat or the payment of a contribution in respect thereof to the panchayat or the district board, as the case may be.

In the case of markets classified as district markets, the panchayat and its executive authority shall not exercise any of the powers conferred on them by the foregoing sections.

Public halting places.

Public landing places, cart-stands, etc.

77. Subject to such rules as may be prescribed, the panchayat may—

(a) provide public landing places, halting places and cart-stands (which last expression includes stands for animals and vehicles of any description including motor vehicles) and levy fees for their use; and

(b) where any such place or stand has been provided, prohibit the use for the same purpose by any person, within such distance thereof of any public place or the sides of any public road as the panchayat may, subject to the control of the Collector, direct.

Private cart-stands.

78. (1) No person shall open a new private cart-stand or continue to keep open a private cart-stand, unless he obtains from the panchayat a licence to do so. Such licence shall be renewed every year.

(2) The panchayat shall, as regards private car-stands already lawfully established, and may at its discretion as regards new private cart-stands, grant the licence applied for, subject to such conditions as the panchayat may think fit as to supervision and inspection, conservancy and such other matters as may be prescribed; or the panchayat may refuse to grant such licence for any new cart-stand.

(3) The panchayat may modify the conditions of the licence to take effect from a specified date.

(4) The panchayat may at any time suspend or cancel any licence granted under sub-section (2) for breach of the conditions thereof.

(5) The panchayat may levy on every grant or renewal of a licence under this section a fee not exceeding two hundred rupees.

Slaughter-houses.

Public slaughter-houses.

79. A panchayat may provide places for use as public slaughter houses and charge rents and fees for their use.

Prohibition or regulation of the use of places for slaugtering animals and the licensing of slaughterers.

80. The Government shall have power to make rules for—

(a) prohibiting or regulating the slaughter, cutting up or skinning of animals specified in the rules on all occasions not excepted therein, at places other than public slaughter-houses;

(b) licensing person to slaughter animals specified in the rules for purposes of sale to the public; and

(c) the inspection of slaughter-houses and of the meat therein and the payment of remuneration to the officers employed for such inspection.

Industries and factories.

Purposes for which places may not be used without a licence.

81. The panchayat may with the previous approval of the Collector notify that no place within the limits of the village shall be used for any of the purposes specified in the rules made in this behalf, being purposes which, in the opinion of the Government, are likely to be offensive or dangerous to human life or health or property, without a licence issued by the executive authority and except in accordance with the conditions specified in such licence:

Provided that no such notification shall take effect until sixty days from the date of its publication.

Permission for the construction of factories and the installation of machinery.

82. No person shall, without the permission of the panchayat and except in accordance with the conditions specified in such permission—

(a) construct or establish any factory, workshop or workplace in which it is proposed to employ steam power, water power or other mechanical power or electrical power or

(b) install in any premises any machinery or manufacturing plant driven by steam, water or other power as aforesaid, not being machinery or manufacturing plant exempted by the rules.

Power of Government to make rules in respect of the grant and renewal of licences and permissions.

83. (1) The Government may make rules—

(a) prohibiting or regulating the grant or renewal of licences under section 81 and the period for which such licences shall be valid;

(b) as to the time within which applications for such licences or renewals thereof shall be made; and

(c) prohibiting or regulating the grant of permissions under section 82.

Rules made under clause (c) may empower the panchayat to set apart specified areas in the village for industrial purposes and provide for the refusal of permissions under section 82 in respect of any factory, workshop, work-place or premises outside such areas and also, subject to the sanction of the prescribed authority, for the removal to such areas, of any factory, workshop or work-place which has been already established at any place, or any machinery which has already been installed in any premises, situated outside such areas:

Provided that no such rule shall authorize the removal of any factory, workshop or work-place or machinery installed in any premises, in the occupation or under the control of the Central or the Provincial Government or of a market committee established under the Madras Commercial Crops Markets Act, 1933.

(2) The Government may either generally or in any particular case, make such order or give such directions as they may deem fit in respect of any action taken or omitted to be taken under section 81 or section 82.

Application of the Places of Public Resort Act.

Modification of the places of Public Resort Act, 1888.

84. Notwithstanding anything contained in the Places of Public Resort Act, 1888, when the Government extend that Act to any village or part thereof—

(a) the authority to whom application shall be made for a licence under that Act in respect of any place or building, to be used exclusively for purposes other than the holding of cinematograph exhibitions, and who may grant or refuse such licence, shall be the executive authority; and

(b) the appeal from the order of the executive authority granting, refusing, revoking or suspending a licence under that Act shall lie to the panchayat.

CHAPTER VI—GENERAL AND PROCEDURE.

Licences and permissions.

General provisions regarding licences and permissions.

85. (1) Save as otherwise expressly provided in or may be prescribed under this Act, every application for any licence or permission under this Act or any rule, by-law or regulation made thereunder, or for the renewal thereof, shall be made not less than thirty and not more than ninety days before the earliest date with effect from which, or the commencement of the period (being a year or such less period as is mentioned in the application) for which, the licence or permission is required.

(2) Save as aforesaid, for every such licence or permission, fees may be charged on such units and at such rates not exceeding the maximum, if any, prescribed, as may be fixed by the panchayat.

(3) Save as aforesaid, if orders on an application for any such licence or permission are not communicated to the applicant within thirty days or such longer period as may be directed in any particular case or as may be prescribed in any class of cases after the receipt of the application by the executive authority, the application shall be deemed to have been allowed for the period, if any, for which it would have been ordinarily allowed, and subject to the law, rules, by-laws and regulations and all conditions ordinarily imposed.

(4) The acceptance of the pre-payment of the fee for any such licence or permission shall not entitle the person making such pre-payment to the licence or permission, but only to a refund of the fee in case of refusal of the licence or permission.

(5) If an act for which any such licence or permission is necessary is done without such licence or permission, or in a manner inconsistent with the terms of the licence or permission obtained, then—

(a) the executive authority may by notice require the person so doing such act to alter, remove, or as far as practicable, restore to its original state, the whole, or any part of any property, movable or immovable, public or private, affected thereby, within time to be specified in the notice; and further,

(b) if no penalty has been specially provided in this Act for so doing such act, the person so doing it shall be punishable with fine not exceeding fifty rupees for every such offence.

(6) Whenever any person is convicted of an offence in respect of the failure to obtain any such licence or permission the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the panchayat the amount of the fee chargeable for the licence or permission, and may, in his discretion, also recover summarily and pay over to the panchayat such amount, if any, as he may fix as the costs of the prosecution.

Explanation.—The recovery of the fee for a licence or permission under this sub-section shall not entitle the person convicted to the licence or permission.

Government and market committees not to obtain licences and permissions.

86. Nothing in this Act or in any rule, by-law or regulation made thereunder shall be construed as requiring the taking out of any licence or the obtaining of any permission under this Act or any such rule, by-law or regulation in respect of any place in the occupation or under the control of the Central or the Provincial Government or of a market committee established under the Madras Commercial Crops Markets Act, 1933, or in respect of any Crown property or of any property belonging to such market committee.

Power to enforce notices, orders, etc.

Time for complying with notice, order, etc., and power to enforce in default.

87. (1) Whenever by any notice, requisition or order under this Act, or under any rule, by-law or regulation made thereunder, any person is required to execute any work or to take any measures or do anything, a reasonable time shall be named in such notice, requisition or order within which the work shall be executed, the measures taken or the thing done.

(2) If such notice, requisition or order is not complied with within the time so named—

(a) the executive authority may cause such work to be executed, or may take any measures or do anything which may, in his opinion, be necessary for giving due effect to the notice, requisition or order; and further,

(b) if no penalty has been specially provided in this Act for failure to comply with such notice, requisition or order, the said person shall be punishable with fine not exceeding fifty rupees for every such offence.

Powers of entry and inspection.

Powers of entry and inspection.

88. (1) Subject to such restrictions and conditions as may be prescribed, the executive authority or any person authorized by him may enter on or into any place, building or land, with or without notice and with or without assistants or workmen in order—

(a) to make any inquiry, inspection, test, examination, survey, measurement or valuation or to execute any other work, which is authorised by the provisions of this Act or of any rule, by-law, regulation or order made under it or which it is necessary to make or execute for any of the purposes of this Act or in pursuance of any of the said provisions, or

(b) to satisfy himself that nothing is being done in such place, building or land for which a licence or permission is required under any of the said provisions without such licence or permission or otherwise than in conformity with the terms of the licence or permission obtained.

(2) No claim shall lie against any person for any damage or inconvenience necessarily caused by the exercise of powers under sub-section (1) or of any force necessary for effecting an entrance under that sub-section.

Testing of weights and measures.

89. The executive authority or any person authorized by him may examine and test the weights and measures used in the markets and shops in the village with a view to the prevention and punishment of offences relating to such weights and measures under Chapter XIII of the Indian Penal Code.

Limitation.

Limitation for recovery of dues.

90. No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any tax or other sum due to a panchayat under this Act or any rule, by-law, regulation or order made under it after the expiration of the period of three years from the date on which distraint might first have been made, a suit might first have been instituted, or prosecution might first have been commenced, as the case may be, in respect of such tax or sum.

Prosecutions, suits, etc.

Persons empowered to prosecute.

91. Save as otherwise expressly provided in this Act, no person shall be tried for any offence against this Act or any rule or by-law made thereunder unless complaint is made within three months of the commission of the offence by the Police, or the executive authority or by a person expressly authorized in this behalf by the panchayat or executive authority; but nothing herein shall affect the provisions of the Code of Criminal Procedure, 1898, in regard to the power of certain Magistrates to take cognizance of offences upon information received or upon their own knowledge or suspicion:

Provided that failure to take out a licence or obtain permission under this Act shall, for the purposes of this section, be deemed to be a continuing offence until the expiration of the period, if any, for which the licence or permission is required and if no period is specified, complaint may be made at any time within twelve months from the commencement of the offence.

Composition of offences.

92. The executive authority may, subject to such restrictions and control, as may be prescribed, compound any offence against this Act or any rule or by-law made thereunder, which may by rules be declared compoundable.

Prosecutions and compositions to be reported to panchayat.

93. Every prosecution instituted or offence compounded by the executive authority shall be reported by him to the panchayat at its next meeting.

Sanction for prosecution of president or member of a panchayat.

94. When the president, any member, or the executive authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government.

Notice of action against panchayat, etc.

95. (1) No suit or other legal proceeding shall be brought against any panchayat or its president or executive authority or any member, officer or servant thereof or against any person acting under the direction of such panchayat, president, executive authority, member, officer or servant, in respect of any Act done or purporting to be done under this Act or in respect of any alleged neglect or default in the execution of this Act or any rule, by law, regulation or order made under it, until the expiration of two months next after notice in writing, stating the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of residence of the intended plaintiff has been left at the office of the panchayat, and if the proceeding is intended to be brought against any such president, executive authority, member, officer, servant or person, also delivered to him or left at his place of residence; and unless such notice be proved, the Court shall find for the defendant.

(2) Every such proceeding shall, unless it is a proceeding for the recovery of immovable property or for a declaration of title thereto, be commenced within six months after the date on which the cause of action arose or in a case of a continuing injury or damage, during such continuance or within six months after the ceasing thereof.

(3) If any panchayat or person to whom notice is given under sub-section (1) tenders amends to the plaintiff before the proceeding is commenced and if the plaintiff does not in such proceeding recover more than the amount so tendered, he shall not recover any costs incurred by him after such tender; and the plaintiff shall also pay all costs incurred by the defendant after such tender.

Protection of president and officers acting in good faith.

96. No suit or other legal proceeding shall be brought against the president, executive authority or any member, officer or servant of a panchayat, or any person acting under the direction of a panchayat or of such president, executive authority, member, officer or servant, in respect of any act done or purporting to be done under this Act or in respect of any alleged neglect or default on his part in the execution of this Act, or any rule, by-law, regulation or order made under it, if such act was done or such neglect or default occurred, in good faith; but any such proceeding shall, so far as it is maintainable in a Court, be brought against the panchayat, except in the case of suits brought under section 98.

Injunctions not to be granted in election proceedings.

97. Notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, no Court shall grant any permanent or temporary injunction or make any *interim* order restraining any proceeding which is being or about to be taken under this Act for the preparation or publication of any electoral roll or for the conduct of any election.

Liability of the president, executive authority and members for loss, waste or misapplication of property.

98. (1) The president, every member, and the executive authority of a panchayat shall be liable for the loss, waste or misapplication of any money or other property owned by or vested in the panchayat if such loss, waste or misapplication is a direct consequence of his neglect or misconduct; and a suit for compensation may be instituted against him in any Court of competent jurisdiction by the panchayat with the previous sanction of the Collector or by the Registrar-General.

(2) Every such suit shall be commenced within three years after the date on which the cause of action arose.

Assessments, etc., not to be impeached.

99. (1) No assessment or demand made, and no charge imposed, under the authority of this Act shall be impeached or affected by reason of any clerical error or by reason of any mistake (*a*) in respect of the name, residence, place of business or occupation of any person, or (*b*) in the description of any property or thing, or (*c*) in respect of the amount assessed, demanded or charged, provided that the provisions of this Act have been in substance and effect complied with. And no proceedings under this Act shall, merely for defect in form, be quashed or set aside by any Court of Justice.

(2) No suit shall be brought in any Court to recover any sum of money collected under the authority of this Act or to recover damages on account of any assessment or collection of money made under the said authority:

Provided that the provisions of this Act have been in substance and effect complied with.

(3) No distraint or sale under this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any error, defect, or want of form in the bill, notice, schedule, form, summons, notice of demand, warrant of distraint, inventory, or other proceeding relating thereto, if the provisions of this Act, the rules and by-laws have in substance and effect been complied with:

Provided that every person aggrieved by any irregularity may recover satisfaction for any special damage sustained by him.

CHAPTER VII.—RULES, BY-LAWS AND PENALTIES.

Rules.

Power of Government to make rules.

100. (1) The Government shall, in addition to the rule-making powers conferred on them by any other provisions contained in this Act, have power to make rules generally to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules—

(*i*) as to all matters relating to electoral rolls or elections, not expressly provided for in this Act, including deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited, and the conduct of inquiries and the decision of disputes relating to electoral rolls or elections;

(*ii*) as to the resignations of presidents, vice-presidents and members, and the dates on which such resignation shall take effect;

(*iii*) as to the interpellation of the president by the members and the moving of resolutions at meetings;

(*iv*) as to the constitution of committees of panchayats, the inclusion of outsiders therein, and the delegation of functions to such committees;

(*v*) as to the delegation of any function of a panchayat to the president, member, any officer of the panchayat or any servant of the Crown;

(*vi*) for the lodging and investment of the moneys of the panchayat and for the manner in which such moneys may be drawn upon;

(*vii*) as to the transfer of allotments entered in the sanctioned budget of a panchayat from one head to another;

(*viii*) as to the estimates of receipts and expenditure, returns, statements and reports to be submitted by panchayats;

(*ix*) as to the preparation of plans and estimates for works and the power of panchayats and of servants of the Crown to accord professional or administrative sanction to estimates;

(*x*) as to the accounts to be kept by panchayats, the audit and publication of such accounts and the conditions under which rate-payers may appear before auditors, inspect books and accounts, and take exception to items entered or omitted;

(*xi*) as to the powers of auditors to disallow and surcharge items, appeals against orders of disallowance or surcharge, and recovery of sums disallowed or surcharged;

(*xii*) as to the powers of auditors, inspecting and superintending officers and officers authorized to hold inquiries, to summon and examine witnesses and to compel the production of documents and all other matters connected with audit, inspection and superintendence;

(*xiii*) as to the conditions on which property may be acquired by a panchayat, or on which property vested in or belonging to a panchayat may be transferred by sale, mortgage, lease, exchange or otherwise;

(*xiv*) as to the conditions on which and the mode in which contracts may be made by or on behalf of panchayats;

(*xv*) the assessment of taxes under this Act and the revision of, and appeals against, assessments;

(*xvi*) the acceptance in lieu of any tax due under this Act, of any service by way of labour, cartage or otherwise;

(*xvii*) the realization of any tax or other sum due to a panchayat under this Act or any other law or any rules or by-laws, whether by distraint and sale of movable property, by prosecution before a Magistrate, by a suit, or otherwise;

(*xviii*) the realization of any tax or other sum due to a panchayat under this Act or whether by the seizure and sale of the vehicle or animal concerned or any part of its burden, or otherwise;

(*xix*) as to the form and contents of licences, permissions and notices granted or issued under this Act, the manner of their issue or the method of their service, and the modification, suspension or cancellation thereof;

(*xx*) as to the powers of executive authorities to call for information on any matter, to summon and examine witnesses, and to compel the production of documents;

(*xxi*) for the use of the facsimiles of the signatures of the executive authorities and officers of panchayats;

(*xxii*) as to the grant to the public of copies of any proceeding or record of the panchayat, not relating to any matter classified as confidential by the Government or any authority empowered by them, and the fees to be levied for the grant of such copies;

(*xxiii*) as to the opening, maintenance, management and supervision of elementary schools;

(*xxiv*) prohibiting or regulating the use for any specified purposes, of any public spring, tank, well or watercourse or of any private spring, tank, well or watercourse, with the consent of its owner, or without such consent;

(*xxv*) regulating contracts between the panchayat and the owners or occupiers of private premises for the removal therefrom of rubbish or filth, or any kind of rubbish or filth;

(*xxvi*) as to the provision of burial and burning grounds; the licensing of private burial and burning grounds; the regulation of the use of all grounds so provided or licensed; the closing of any such grounds; and the prohibition of the disposal of corpses except in such grounds or other permitted places;

(*xxvii*) as to the licensing of pigs and dogs and the destruction of unlicensed pigs and dogs;

(*xxviii*) as to the regulation or restriction of building and the use of sites for building;

(*xxix*) for the removal of encroachments of any description from public roads vesting in panchayats and the repair of any damage caused to such roads by the person causing the damage or at his expense;

(*xxx*) for the determination of any claim to trees growing on public roads or other property vesting in or belonging to panchayats or on porambokes or lands, the use of which is regulated by them under section 53 or section 54 and the presumptions to be drawn as regards the ownership of such trees;

(*xxxi*) as to the imposition and recovery of penalties for the unauthorised occupation of public roads or other land vesting in or belonging to panchayats and the assessment and recovery of compensation for any damage caused by such occupation;

(*xxxii*) as to the powers which may be exercised by the panchayat or the executive authority in respect of any public or private market or the user thereof, and the enforcement of any orders issued in pursuance of such powers; and as to the prohibition of the sale or purchase of any commercial crop in any such market within any area notified in respect of such crop under the Madras Commercial Crops Markets Act, 1933;

(*xxxiii*) for compelling owners of cattle to stall them in cattle-sheds provided by the panchayat and the fees leviable in respect thereof;

(*xxxiv*) as to the duties to be discharged by village officers in relation to panchayats and their executive authorities;

(*xxxv*) as to appeals against orders (including orders granting or refusing licences or permissions) passed under this Act, and the time within which appeals whether allowed by this Act or by rules or otherwise should be presented;

(*xxxvi*) as to the classification of public roads, fairs and festivals, choultries, dispensaries and libraries as appertaining to the district board or the panchayat;

(*xxxvii*) for regulating the sharing between local authorities in the Province of the proceeds of any tax or income levied or obtained under this or any other Act;

(*xxxviii*) for the decision of disputes between two or more local authorities of which one is a panchayat;

(*xxxix*) as to the class of Magistrates by whom offences against this Act shall be tried;

(*xl*) as to the manner of publication of any notifications or notices to the public under this Act.

Penalties for breach of rules.

101. (1) In making any rule under this Act, the Government may provide that a breach thereof shall be punishable with fine which may extend to one hundred rupees, or in case of a continuing breach, with fine not exceeding fifteen rupees for every day during which the breach continues after conviction for the first breach.

(2) The power to make rules under this Act shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the *Fort St. George Gazette* and upon such publication, shall have effect as if enacted in this Act.

By-laws.

By-laws and penalties for their breach.

102. (1) Subject to the provisions of this Act and of any other law and to such rules as may be prescribed, a panchayat may, with the approval of the Registrar-General, make by-laws for carrying out any of the purposes for which it is constituted.

(2) In making a by-law, the panchayat may provide that any person who commits a breach thereof shall be liable to pay by way of penalty such sum as may be fixed by the panchayat not exceeding fifteen rupees or, in case of a continuing breach, not exceeding five rupees for every day during which the breach continues after a penalty has been levied for the first breach.

(3) The Government shall have power to make rules regarding the procedure for the making of by-laws the publication thereof, and the date on which they shall come into effect.

Penalties.

General provisions regarding penalties specified in the Schedule.

103. (1) Whoever—

(*a*) contravenes any of the provisions of this Act specified in the first and second columns of Schedule I, or

(*b*) contravenes any rule or order made under any of the provisions so specified, or

(*c*) fails to comply with any direction lawfully given to him, or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

shall be punished with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

(2) Whoever after having been convicted of—

(a) contravening any of the provisions of this Act specified in the first and second columns of Schedule II, or

(b) contravening any rule or order made under any of the provisions so specified, or

(c) failing to comply with any direction lawfully given to him or any requisition lawfully made upon him under or in pursuance of any of the said provisions,

continues to contravene the said provision or the said rule or order, or continues to fail to comply with the said direction or requisition, shall be punished for each day after the previous date of conviction during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the fourth column of the said Schedule.

Explanation.—The entries in the third columns of Schedules I and II headed "Subject" are not intended as definitions of the offences described in the provisions specified in the first and second columns thereof, or even as abstracts of those provisions, but are inserted merely as references to the subject dealt with therein.

Penalty for acting as member, president or vice-president of a panchayat when disqualified.

104. (1) Whoever acts as a member of a panchayat knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, shall be punished with fine not exceeding two hundred rupees for every such offence.

(2) Whoever acts as the president, temporary president or vice-president of a panchayat or exercise any of his functions including where he is also the executive authority, any of his functions as such knowing that, under this Act or the rules made thereunder, he is not entitled or has ceased to be entitled to hold office as such, or to exercise such functions, shall be punished with fine not exceeding one thousand rupees for every such offence.

(3) Any person who having been the president, temporary president or vice-president of a panchayat fails to hand over any documents of, or any moneys or other properties vested in or belonging to, the panchayat, which are in or have come into his possession or control, to his successor in office or other prescribed authority—

(a) in every case as soon as his term of office as such president, temporary president or vice-president expires; and

(b) in the case of a person who was the vice-president, also on demand by the president, shall be punished with fine not exceeding one thousand rupees for every such offence.

Penalty for acquisition by an officer or servant of interest in contract work.

105. If any officer or servant of a panchayat knowingly acquires, directly or indirectly, by himself or by a partner, employer or servant, any personal share or interest in any contract or employment with, by or on behalf of, the panchayat, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code:

Provided that no person shall, by reason of being a shareholder in, or member of, any company, be held to be interested in any contract entered into between such company and the panchayat unless he is a director of such company:

Provided further that nothing in this section shall apply to any person who, with the sanction of the Collector, enters into a contract with the panchayat.

Wrongful restraint of executive authority or his delegate.

106. Any person who prevents the executive authority or any person to whom the executive authority has lawfully delegated his powers of entering on or into any place, building or land, from exercising his lawful power of entering thereon or thereinto shall be deemed to have committed an offence under section 341 of the Indian Penal Code.

Prohibition against obstruction of panchayats, servants or contractors.

107. Any person obstructing or molesting a panchayat or the president, the executive authority or a member of the panchayat, or any person employed by it or any person with whom a contract has been entered into by or on behalf of the panchayat, in the discharge of their duty or of anything which they are empowered or required to do by virtue, or in consequence, of this Act, or of any rule, by-law, regulation or order made under it, shall be punished with fine which may extend to fifty rupees.

Prohibition against removal or obliteration of notice.

108. Any person who, without authority in that behalf removes, destroys, defaces or otherwise obliterates any notice exhibited or any sign or mark erected by, or under the orders of a panchayat or its executive authority, shall be punished with fine which may extend to fifty rupees.

Penalty for not giving information or giving false information.

109. Any person required by this Act or by any notice or other proceedings issued thereunder to furnish any information, who omits to furnish such information, or knowingly furnishes false information, shall be punishable with fine not exceeding one hundred rupees:

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Special provisions in the case of new panchayat.

110. (1) The provisions of this section shall apply when a panchayat is constituted for the first time, notwithstanding anything contained in this Act.

(2) The election authority shall make arrangements for the elections to the panchayat being made, so that the newly elected members may come into office on the date specified in the notification issued by the Collector under clause (a) of sub-section (1) of section 3 for the constitution of the panchayat:

Provided that the Collector shall have power from time to time to postpone the date so specified if, for any reason, it is not found possible to complete the elections in time.

(3) (a) As soon as may be after the election of the members of such panchayat, the election authority shall appoint a person not being a member of the panchayat to convene a meeting of the panchayat for the election of its president; and the person so appointed shall preside at the meeting so convened, and have all the powers of the president in relation thereto, except that he shall not have the right to vote at the election.

(b) Until a president is elected as aforesaid, the village headman, or if more than one village headman is a member of the panchayat, the headman of the revenue village specified by the Collector, shall, subject to such restrictions and conditions as may be prescribed, exercise the functions of the executive authority.

(4) The term of office of the members elected under sub-section (2) or of the members elected in their places in casual vacancies shall expire in such year and on such date as the Collector may fix. The year so fixed shall be either the year in which the next ordinary elections or the year in which the ordinary elections immediately succeeding such elections are to be held for any panchayat in the same district. The date so fixed shall not be later than the 31st day of December.

Public roads, markets, wells, tanks, etc., to be open to all.

111. All roads, markets, wells, tanks, reservoirs and waterways vested in or maintained by a panchayat shall be open to the use and enjoyment of all persons, irrespective of their caste or creed.

Fees in certain cases to be source of revenue.

112. The fees referred to in sections 72 (2), 73 (4), 77 (a), 78 (5), 79, 100 (2) (xxxiii) and in any other provision which may be specified in rules made in this behalf, may be levied so as to be a source of revenue to the panchayat; that is to say, the fees need not be restricted in amount so as merely to cover the costs incurred by the panchayat on account of the service rendered, or the duty performed by it in connection with the matter in respect of which the fees are levied.

Power to farm out fees.

113. A panchayat shall have power to farm out the collection of any fees due to it under this Act or any rule, by-law or regulation made thereunder for any period not exceeding three years at a time, on such conditions as it thinks fit.

Extension of provisions of Madras District Municipalities Act, 1920, or of rules thereunder.

114. The Collector may, whether at the request of the panchayat or otherwise, by notification, extend to the village or to any specified area therein, any of the provisions of the Madras District Municipalities Act, 1920, or of any rules made thereunder and may declare such extension to be subject to such restrictions and modifications as he thinks fit.

Transfer of functions between district boards and panchayats.

115. Notwithstanding anything contained in this Act or in the Madras District Boards Act, 1920, the Government may, by notification and subject to such restrictions and conditions and to such control and revision as may be specified therein, direct—

(a) that in the case of any panchayat or class of panchayats, any function vested in such panchayat or class of panchayats by or under this Act shall be transferred to, and performed by, the district board; and

(b) that any function vested in a district board by or under the Madras District Boards Act, 1920, shall be transferred to and performed by any panchayat or class of panchayats.

Delegation of powers, etc.

116. (1) The Government may, by notification, authorize any authority or person to exercise in any local area, in regard to any panchayat or any class of panchayats or all panchayats in that area, any of the powers vested in them by this Act except the power to make rules; and may in like manner withdraw such authority.

(2) The Registrar-General or the Collector may, by notification, authorize any person to exercise in any local area in the Province or the revenue district, as the case may be, in regard to any panchayat, or any class of panchayats or all panchayats in that area any of the powers vested by this Act in the Registrar-General or the Collector, as the case may be; and may in like manner withdraw such authority.

(3) The exercise of any power delegated under sub-section (1) or (2) shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notification, and also to control and revision by the delegating authority, or where such authority is the Government, by such persons as may be empowered by the Government in this behalf. The Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

(4) The exercise of any powers conferred on the Registrar-General or the Collector by any of the provisions of this Act, including sub-sections (2) and (3) of this section, shall be subject to such restrictions and conditions as may be prescribed and also to control and revision by the Government or by such persons as may be empowered by them in this behalf, whether the power is exercised by the Registrar-General or the Collector or by a person to whom it has been delegated under sub-section (2). The Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

Construction of references to panchayat.

117. Any reference to a panchayat contained in any law, rule, by-law, regulation, notification or order in force in the Province at the commencement of this Act shall be deemed to be a reference to a panchayat as reconstituted or constituted under this Act.

Adjudication of disputes between local authorities.

118. (1) When a dispute exists between a panchayat and one or more other local authorities in regard to any matter arising under the provisions of this or any other Act and the Government are of opinion that the panchayat and the other local authorities concerned are unable to settle it amicably among themselves, the Government may take cognizance of the dispute, and—

(a) decide it themselves, or

(b) refer it for inquiry and report to an arbitrator or a board of arbitrators or to a joint committee constituted under section 84 for the purpose.

(2) The report referred to in clause (b) of sub-section (1) shall be submitted to the Government who shall decide the dispute in such manner as they deem fit.

(3) Any decision given under clause (a) of sub-section (1) or under sub-section (2) may be modified from time to time by the Government in such manner as they deem fit, and any such decision with the modifications, if any, made therein under this subsection may be cancelled at any time by the Government.

Any such decision or any modification therein or cancellation thereof shall be binding on the panchayat and each of the other authorities concerned and shall not liable to be questioned in any Court of law.

(4) Where one of the local authorities concerned is a cantonment authority or the port authority of a major port, the powers of the Government under this section shall be exercisable only with the concurrence of the Central Government.

Act to be read subject to Schedule III in regard to first reconstitution of panchayats, etc.

119. (1) In regard to the first reconstitution in accordance with the provisions of this Act of panchayats in existence at the commencement thereof, and otherwise in first giving effect to the said provisions, they shall be read subject to the rules in Schedule III.

(2) The Government shall have power, by notification to amend, add to or repeal the rules in the said Schedule.

Power to remove difficulties.

120. If any difficulty arises in first giving effect to the provisions of this Act or as to the first reconstitution or constitution of any panchayat after the commencement of this Act, the Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

Consequential amendment of the Madras Public Health Act, 1939.

121. In the Madras Public Health Act, 1939, the following consequential amendments shall be made, namely:—

(i) in clause (8) of section 3, after the word "President", the words "Executive Officer" shall be inserted; the word "or" occurring after the words and figures "District Municipalities Act, 1920" shall be omitted; and before the words "as the case may be," the words and figures "or the Madras Village Panchayats Act, 1946," shall be inserted;

(ii) in clause (9) of the same section, the word "or" occurring after the words and figures "District Municipalities Act, 1920" shall be omitted; and before the words "as the case may be," the words and figures "or the Madras Village Panchayats Act, 1946," shall be inserted;

(iii) in clause (20) of the same section, after the words "a panchayat" in sub-clause (c), the words and figures "constituted under the Madras Village Panchayats Act, 1946" shall be inserted; and for the words "a panchayat" in sub-clause (d), the words "such panchayat" shall be substituted;

(iv) in section 16, before the words and figures "the Madras Prevention of Adulteration Act, 1918," the words and figures "the Madras Village Panchayats Act, 1946", shall be inserted;

(v) in section 188, the word "and" occurring at the end of clause (b) shall be omitted; and after clause (c), the following clause shall be added, namely:—

"(d) in case the local authority is a panchayat constituted under the Madras Village Panchayats Act, 1946, section 102 of that Act."

SCHEDULE I.

Ordinary penalties.

[*See* section 103 (1).]

Section.	Sub-section or clause.	Subject.	Fine which may be imposed.
(1)	(2)	(3)	(4)
71	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	One hundred rupees.
71	(b)	Unlawful making of hole or depositing of matter in or over public road.	Fifty rupees.
71	(c)	Unlawful Quarrying in any place near public road, etc.	Fifty rupees.
71	(d)	Unlawful construction of building over drain ..	Two hundred rupees.
71	(e)	Planting of trees without permission on any public road or other property vested in a panchayat.	Two hundred rupees.
71	(f)	Felling, etc., without permission of trees growing on public road or other property vested in a panchayat, or on a poramboke or land, the use of which is regulated by it under section 53 or section 54.	Two hundred rupees.
73	(1)	Opening a new private market or continuing to keep open a private market without licence or contrary to licence.	Five hundred rupees.
73	(3)	Levy of fees in private market without a certificate.	One hundred rupees.
74	..	Sale or exposure for sale in public or private market of any animal or article without permission.	Twenty rupees.
75	..	Sale, etc., of articles in public roads or places after prohibition or without licence or contrary to regulations.	Ten rupees.
77	(b)	Using any public place or roadside as a landing or halting place or as a cart-stand within prohibited distance.	Fifty rupees.
78	(1)	Opening a new private cart-stand or continuing to keep open a private cart-stand without licence or contrary to licence.	Two hundred rupees.
80	(a)	Slaughtering, cutting up or skinning, etc., of animals outside public slaughter-houses in contravention of rules.	Two hundred rupees.
80	(b)	Slaughtering animals for purposes of sale without licence or contrary to licence.	Twenty rupees.
81	..	Using a place for any prescribed purpose without licence or contrary to licence.	One hundred rupees.
82	..	Unlawful erection of factory, workshop, etc. ..	One thousand rupees.
111	..	Obstructing a person in the use or enjoyment of a public road, market, well, tank, etc.	One hundred rupees.

SCHEDULE II.

Penalties for continuing breaches.

[*See* section 103 (2).]

71	(a)	Unlawful building of wall or erecting of fence, etc., in or over public road.	Twenty rupees.
71	(b)	Unlawful making of hole or depositing of matter in or over public road.	Ten rupees.
71	(c)	Unlawful quarrying in any place near public road, etc.	Ten rupees.
71	(d)	Unlawful construction of building over drain ..	Fifty rupees.

Section. (1)	Sub-section or clause. (2)	Subject. (3)	Fine which may be imposed. (4)
73	(1)	Keeping open a private market without licence or contary to licence.	One hundred rupees.
73	(3)	Levy of fees in private market without a certificate.	Fifty rupees.
74	..	Sale or exposure for sale in public or private market of animal or article without permission.	Ten rupees.
78	(1)	Keeping open a private cart-stand without licence or contrary to licence.	Twenty rupees.
81	..	Using a place for any prescribed purpose without a licence or contrary to licence.	Twenty rupees.
82	..	Unlawful erection of factory, workshop, etc.	One hundred rupees.

SCHEDULE III.

Transitional provisions.

[*See* section 119.]

Definitions of "old Act" and "panchayat."

1. In these rules, "the old Act" means the Madras Local Boards Act, 1920, and "panchayat" means a panchayat constituted under the old Act and in existence at the commencement of this Act.

Existing villages and panchayats to be deemed to be duly constituted.

2. Every local area which at the commencement of this Act is a village under the old Act shall be deemed to have been declared to be a village under this Act, and every panchayat shall be deemed to have been constituted under this Act.

Existing reservation of seats to continue.

3. The reservation of seats for any community or communities which is in force in any panchayat at the commencement of this Act shall be deemed to have been made under this Act.

Existing wards to continue.

4. Any division of the village into wards and any determination of the number of members to be returned by such wards for non-reserved seats and for the seats, if any, reserved for any community or communities shall be deemed to have been made under this Act.

Division of existing villages into wards in certain cases.

5. Where a village consisting of two or more revenue villages or portions thereof has not been divided into wards before the commencement of this Act, the Collector shall, as soon as may be after such commencement, divide the village or portions thereof into wards and determine the number of members to be elected by each ward for the non-reserved seats and the reserved seats, if any. The Collector shall also determine the ward which each member holding office at the commencement of this Act shall be deemed to represent.

Total number of members of panchayats.

6. The total number of members of a panchayat fixed under the old Act and in force at the commencement of this Act, as increased by the number of its ex-officio member or members under section 6 (1) of this Act, shall be deemed to be the total number of its members under this Act.

Term of office of existing members.

7. The term of office of the members of every panchayat holding office at the commencement of this Act shall, subject to the provisions thereof, continue up to the date on which it would have expired if this Act had not been passed.

Term of office of existing presidents and vice-presidents.

8. The president and vice-president of a panchayat holding office at the commencement of this Act shall, subject to the provisions thereof, continue to hold office as such president or vice-president until the date referred to in rule 7.

Filling up of casual vacancies.

9. (1) Any vacancy in the office of the president or vice-president of a panchayat which is in existence at the commencement of this Act or which occurs before the date referred to in rule 7 shall be filled by election by the panchayat.

(2) Any such vacancy in the office of an elected member of a panchayat shall be filled by election under the provisions of this Act.

For the purposes of this rule, if a person holding office as an elected member of a panchayat at the commencement of this Act becomes an ex-officio member thereof under the provisions of this Act, his seat as an elected member shall be deemed to have become vacant at the commencement of this Act.

(3) Any person elected as president, vice-president or member of a panchayat under sub-rule (1) or (2) shall hold office only up to the date referred to in rule 7.

Explanation.—The office of president, vice-president or member of a panchayat to which no person had, at any time prior to the commencement of this Act, been elected, shall be deemed to be vacant at the commencement of this Act within the meaning of this rule.

Reconstitution of panchayats dissolved or superseded under old Act.

10. Any panchayat dissolved or superseded under the old Act and awaiting reconstitution at the commencement of this Act may be reconstituted, so far as may be, in accordance with the provisions of this Act.

Constitution of panchayats for which special officer has been appointed under old Act.

11. Where a panchayat has been constituted for the first time under the old Act and a special officer appointed under section 240 of that Act is in office as such at the commencement of this Act, it shall be open to the Collector to direct that the panchayat shall be constituted under section 240 of the old Act or under section 110 of this Act, subject in either case to such modifications as he may direct.

Devolution of property, rights and liabilities.

12. (1) All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by or vested in, or held in trust, by or for any panchayat as well as all liabilities legally subsisting against it shall, on and from the date of the commencement of this Act and subject to such directions as the Government may, by general or special order, give in this behalf, pass to such panchayat as constituted under this Act.

(2) All arrears of taxes or other payments by way of composition for a tax or due for expenses or compensation or otherwise due to a panchayat at the commencement of this Act may be recovered as if they had accrued under this Act.

(3) All proceedings taken by or against any panchayat or other authority under the old Act may, in so far as they are not inconsistent with this Act, be continued by such panchayat or authority under this Act.

Continuance of existing taxes.

13. Any tax which was being lawfully levied by any panchayat at the commencement of this Act shall continue to be levied by the panchayat for the year in which this Act is brought into force and unless and until the Government by general or special order otherwise direct, for subsequent years also.

Action taken under old Act to continue.

14. Any action taken by any authority before the commencement of this Act shall, unless inconsistent with this Act, be deemed to have been taken by the authority competent to take such action under this Act, unless and until superseded by action taken by such authority, whether it be the same as the authority competent to take such action under the old Act or not.

THE MADRAS PAYMENT OF SALARIES AND REMOVAL OF DISQUALIFICATIONS (AMENDMENT) ACT, 1946.

ACT No. XIII OF 1946.

[10*th June*, 1946.

An Act to amend the Madras Payment of Salaries and Removal of Disqualifications Act, 1937.

WHEREAS it is expedient to amend the Madras Payment of Salaries and Removal of Disqualifications Act, 1937, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (1) This Act may be called THE MADRAS PAYMENT OF SALARIES AND REMOVAL OF DISQUALIFICATIONS (AMENDMENT) ACT, 1946.

(2) It shall be deemed to have come into force on the 1st day of May 1946.

Provided that travelling allowances may be paid under clause (*a*) of section 6-A of the Madras Payment of Salaries and Removal of Disqualifications Act, 1937, as amended by this Act, in respect of any journey performed before that date.

Amendment of section 2, Madras Act IX of 1937.

2. In the Madras Payment of Salaries and Removal of Disqualifications Act, 1937, (hereinafter referred to as the said Act), in section 2 which relates to the Prime Minister and the other Ministers, for the words "a salary of rupees five hundred per mensem, a house rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem", the following words shall be substituted, namely:—

"a salary of rupees one thousand per mensem, a house rent allowance of rupees two hundred and fifty per mensem and a conveyance allowance of rupees two hundred and fifty per mensem; but the house rent allowance shall not be paid to any Minister if he occupies a house provided by the Provincial Government, free of rent".

Amendment of section 3, Madras Act IX of 1937.

3. In section 3 of the said Act—

(i) in sub-section (1) which relates to the Speaker of the Legislative Assembly, for the words "a salary of rupees five hundred per mensem, a house-rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem", the following words shall be substituted, namely:—

"a salary of rupees one thousand per mensem, a house rent allowance of rupees two hundred and fifty per mensem and a conveyance allowance of rupees two hundred and fifty per mensem; but the house rent allowance shall not be paid to the Speaker if he occupies a house provided by the Provincial Government, free of rent";

(ii) in sub-section (2) which relates to the Deputy Speaker of the said Assembly, for the words "a salary of rupees one hundred and fifty per mensem", the words "a salary of rupees three hundred per mensem" shall be substituted.

Amendment of section 4, Madras Act IX of 1937.

4. In section 4 of the said Act—

(i) in sub-section (1) which relates to the President of the Legislative Council, for the words "a salary of rupees two hundred and fifty per mensem, a house rent allowance of rupees one hundred per mensem and a conveyance allowance of rupees one hundred and fifty per mensem", the following words shall be substituted, namely:—

"a salary of rupees five hundred per mensem, a house rent allowance of rupees two hundred and fifty per mensem and a conveyance allowance of rupees two hundred and fifty per mensem; but the house rent allowance shall not be paid to the President if he occupies a house provided by the Provincial Government, free of rent";

(ii) in sub-section (2) which relates to the Deputy President of the said Council, for the words "a salary of rupees one hundred and fifty per mensem", the words "a salary of rupees three hundred per mensem" shall be substituted.

Substitution of new section for section 5, Madras Act IX of 1937.

5. For section 5 of the said Act which relates to Parliamentary Secretaries, the following section shall be substituted, namely:—

Salaries of Parliamentary Secretaries.

"5. There shall be paid to the Chief Parliamentary Secretary a salary of rupees six hundred per mensem and to each of the other Parliamentary Secretaries, a salary of rupees five hundred per mensem.

There shall also be paid to each of the Parliamentary Secretaries, including the Chief Parliamentary Secretary, a consolidated house rent and conveyance allowance of rupees two hundred and fifty per mensem."

Amendment of section 6, Madras Act IX of 1937.

6. In section 6 of the said Act which relates to the provision of conveyances, for the words "the Ministers and the Speaker", the words "the Ministers, the Speaker and the President" shall be substituted.

Insertion of new section 6-A in Madras Act IX of 1937.

7. After section 6 of the said Act, the following section shall be inserted, namely:—

Travelling allowances of Ministers, etc., on assuming and relinquishing office.

"6-A. A Minister, the Speaker, the President, or a Parliamentary Secretary shall be entitled to travelling allowances for himself and the members of his family and for the transport of his personal effects, at such rates and upon such conditions as may be determined by the Provincial Government—

(a) in respect of the journey for assuming office to the City of Madras from his usual place of residence in the Province of Madras, if such place is outside the City, and

(b) in respect of the journey on relinquishing office, from the City of Madras to his usual place of residence in the Province before he assumed office, if such place is outside the City."

Amendment of section 9, Madras Act IX of 1937.

8. (1) In the said Act, section 9 which relates to members of the Legislative Assembly and the Legislative Council shall be renumbered as sub-section (1) of section 9.

(2) In clause (*a*) of sub-section (1) aforesaid, for the words "a salary of rupees seventy-five per mensem", the words "a salary of rupees one hundred and fifty per mensem" shall be substituted.

(3) After sub-section (1) aforesaid, the following sub-section shall be added, namely:—

"(2) The salary referred to in clause (*a*) of sub-section (1) shall accrue to a member from the date on which he is declared duly elected, or in the case of a member chosen by the Governor in his discretion to fill a seat in the Legislative Council, from the date on which he is so chosen, or, if such declaration or choice is made before the vacancy occurs, from the date of occurrence of the vacancy:

Provided that such salary shall not be paid until the member has made and subscribed the oath or affirmation of allegiance prescribed by the Government of India Act, 1935."

Substitution of new section for section 10, Madras Act IX of 1937.

9. For section 10 of the said Act which relates to the relinquishment of salaries and allowances, the following section shall be substituted, namely:—

Relinquishment of salaries and allowances and cancellation thereof.

"10. (1) Any person entitled to any salary or allowance under this Act may at any time—

(*i*) relinquish the whole or any portion of such salary or allowance; and

(*ii*) cancel such relinquishment.

(2) Such relinquishment or cancellation shall be made in writing and shall take effect at such time and subject to such conditions as the Provincial Government may, by rules, determine.

(3) For the removal of doubts, it is hereby declared—

(*a*) that a relinquishment may be made under clause (*i*) of sub-section (1) even after a previous relinquishment has been cancelled under clause (*ii*) of that sub-section; and

(*b*) that a relinquishment made before the 1st day of May, 1946, shall be deemed to have been made under clause (*i*) of sub-section (1) and is liable to be cancelled under clause (*ii*) of that sub-section."

No salary or allowance payable for period before 1st May, 1946.

10. Nothing contained in this Act shall, save as otherwise specified in the proviso to sub-section (2) of section 1, be deemed to authorize the payment of any salary or allowance to any person in respect of the period before the 1st day of May 1946.

THE MADRAS ESSENTIAL ARTICLES CONTROL AND REQUISITIONING (TEMPORARY POWERS) ACT, 1946.

ACT No. XIV OF 1946.

[28*th September*, 1946.

An Act to provide for the continuance during a limited period of powers to control the production, upply, distribution, transport and prices of essential articles and trade and commerce therein and requisitioning of property.

WHEREAS it is expedient to provide for the continuance during a limited period of powers to control the production, supply, distribution, transport and prices of essential articles and trade and commerce therein and requisitioning of property; It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (1) This Act may be called THE MADRAS ESSENTIAL ARTICLE CONTROL AND REQUISITIONING (TEMPORARY POWERS) ACT, 1946.

(2) It extends to the whole of the Province of Madras.

(3) It shall come into force on the 1st day of October, 1946.

(4) It shall remain in force for a period of two years; but the Provincial Government, may, from time to time, by notification in the *Fort St. George Gazette*, extend this period by a further period or periods not exceeding two years in the aggregate, if, in the opinion of the Provincial Government, it is expedient so to do. Such notification shall be placed on the table of the Houses of Legislature if sitting; if not sitting, it will be sent to the members of the Legislature.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "essential article" means any of the articles which is specified in the Schedule to this Act and any other article which may be declared by the Provincial Government by notified order to be an essential article,

(b) "notified order" means an order notified in the *Fort St. George Gazette*,

(c) "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport.

Powers to control production, supply, distribution, transport and prices of essential articles.

3. (1) The Provincial Government, so far as it appears to them to be necessary or expedient for maintaining, increasing or securing supplies of essential articles or for arranging for their equitable distribution and availability at fair prices or for directing, maintaining or increasing the production of any essential article, may, by notified order, provide for regulating or prohibiting the production, supply, distribution and transport of essential articles and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential article;

(b) for controlling the prices at which any essential article may be bought or sold;

(c) for prohibiting or regulating by licences, permits, or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding stocks of an essential article to sell them at fair prices to specified persons or class of persons or in specified circumstances;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which in the opinion of the Provincial Government are, or if unregulated are likely to be, detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to declare their stocks of essential articles, to maintain and allow inspection of or produce for inspection any books, accounts and records relating to their business, and to furnish any other information relating thereto;

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking, such functions of control and subject to such conditions, as may be specified in the order;

(k) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorized to make such search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

Powers of requisitioning and acquisition.

4. (1) If, in the opinion of the Provincial Government, it is necessary or expedient so to do for maintaining, increasing or securing supplies of any essential article or for arranging for its equitable distribution and availability at fair prices or for directing, maintaining or increasing the production of any essential article, the Provincial Government may, by order in writing, requisition any property, movable or immovable, and may make such further orders as appear to them to be necessary or expedient in connexion with such requisitioning:

Provided that no property used for the purpose of religious worship shall be requisitioned under this section:

Provided further that buildings solely used for residential purposes shall not ordinarily be requisitioned.

(2) Where the Provincial Government have requisitioned any property under sub-section (1), they may use or deal with the property in such manner as may appear to them to be expedient and may acquire it by serving on the owner thereof, or where the owner is not readily traceable or the ownership is in dispute, by publishing in the *Fort St. George Gazette*, a notice stating that the Provincial Government have decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the property or is published in the *Fort St. George Gazette*, under sub-section (2), then, at the beginning of the day on which the notice is so served or published, the property shall vest absolutely in the Provincial Government free from all encumbrances and the period of requisition thereof shall end.

Payment of compensation.

5. (1) Whenever in pursuance of section 4 any movable property is requisitioned or acquired, the compensation payable therefor and the person or persons to whom it should be paid shall be determined in accordance with the rules to be made in this behalf by the Provincial Government.

(2) Whenever in pursuance of section 4 any immovable property is requisitioned or acquired, there shall be paid compensation determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement.

(b) Where no such agreement can be reached, the Provincial Government shall appoint, as arbitrator, the District Judge or Subordinate Judge having jurisdiction over the area in which the immovable property is situated.

(c) At the commencement of the proceedings before the arbitrator, the Provincial Government and the person to be compensated shall state what in their respective opinions is a fair amount of compensation.

(d) The arbitrator in making his award shall have regard to—

(i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894, so far as the same can be made applicable, and

(ii) whether the acquisition is of a permanent or temporary character:

Provided that where any property requisitioned is subsequently acquired, the arbitrator, in any proceedings in connexion with such acquisition, shall for the purposes of the provisions of the section 23, take into consideration the market value of the property at the date of the requisition as aforesaid and not at the date of its subsequent acquisition.

(e) An appeal shall lie to the High Court against the award of an arbitrator where the value of the subject-matter in dispute in appeal is two thousand rupees and above.

Explanation.—In the case of periodical payments the value of the subject-matter in appeal shall be deemed to be five times the amount in dispute calculated for one year.

(f) Save as provided in this section and in any rules made under this Act, nothing in any law for the time being in force relating to arbitration shall apply to arbitrations under this section.

(3) The Provincial Government may, with a view to requisitioning or acquiring any property under section 4, by order—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the property as may be so specified;

(b) direct that the owner, occupier or person in possession of the property shall not, without the permission of the Provincial Government, dispose of it or where the property is a building, structurally alter it or where the property is movable, remove it from the premises in which it is kept, until the expiry of such period as may be specified in the order.

Release from requisition.

6. (1) Where any property requisitioned under this Act is to be released from such requisition, the Provincial Government or any person generally or specially authorized by them in this behalf may, after such inquiry, if any, as they or he may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given.

(2) The delivery of possession of the property to the person specified in an order under sub-section (1) shall be a full discharge of the Provincial Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by a due process of law to enforce against the person to whom possession of the property is given.

Control of agriculture.

7. (1) The Provincial Government, so far as it appears to be necessary or expedient for maintaining, increasing or securing the supply of essential articles, may, by notified order, provide—

(a) for prohibiting, restricting or otherwise controlling the cultivation of specified crops;

(b) for bringing under cultivation any waste or arable land, whether appurtenant to a building or not, and for the growing therein of specified crops.

(2) If, in the opinion of the Provincial Government, the person in possession or having effective control of any land to which an order made under sub-section (1) applies, has failed to comply with the order, the Provincial Government may, without prejudice to any other action that may be taken against that person (hereinafter referred to as "defaulter") in respect of the contravention, by order direct that the land shall be placed in the exclusive possession of such person and for such period as may be specified in the order and during the period of continuance of the last mentioned order, the person specified therein shall have all the rights of the defaulter to manage the land and to realise the profits arising therefrom and shall only be liable to pay on behalf of the defaulter the Government reve-

nue, all other charges of a public nature and the rent, if any, accruing due in respect of the land during that period.

Delegation of powers.

8. (1) The Provincial Government may, by notified order, authorize any officer or authority subordinate to the Provincial Government, to exercise any one or more of the powers vested in them by or under this Act, except the power mentioned in section 19, in relation to such matters and subject to such restrictions and conditions, if any, as may be specified in the order.

(2) The exercise of the powers delegated under sub-section (1) shall be subject to control and revision by the Provincial Government or by such persons as may be empowered by them in that behalf. The Provincial Government shall also have power to control and revise the acts or proceedings of any persons so empowered.

Continuance in force of existing orders.

9. (1) Every order made by the Provincial Government or the Central Government or any other competent authority under any of the provisions of the Defence of India Rules in respect of any of the matters specified in sections 3, 4 and 7 which having been notified in the Official Gazette was in force immediately before the commencement of this Act shall, in so far as it could validly have been made by the Provincial Government under this Act, continue in force as if it has been made by the Provincial Government under the provisions of this Act and remain until it is superseded or modified by the competent authority under the provisions of this Act; and all appointments made, licences or permits issued, regulations made and directions given under any such order shall also continue in force until superseded or modified by the competent authority.

(2) The Provincial Government may, if they consider it expedient so to do, from time to time, modify or annul any order, appointment, licence, permit, regulations or direction specified in sub-section (1).

Effect of order inconsistent with other enactments.

10. Any order made under section 3 or section 4 or section 7 or continued under section 9 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Mode of publication.

11. (1) Every authority or officer who makes any order in writing in pursuance of any of the provisions of this Act shall in the case of an order of a general nature affecting a class of persons publish such order by a notification in prescribed manner and in such manner as may in the opinion of such authority or officer be best suited for informing the persons whom the order concerns. Where the order is not of a general nature, the authority or officer may serve the order or cause it to be served on the person concerned—

(a) personally by delivering or tendering him the order; or

(b) by sending him an authenticated copy of the order by post; or

(c) where the person cannot be found, by leaving an authenticated copy of the order with some adult male member of his family or by affixing it to any part of the premises in which he is known to have last resided or carried on business or personally worked for gain.

(2) Where any provision of this Act empowers an authority or officer to take action by notified order, the provisions of sub-section (1) shall not apply in relation to such order.

Penalties.

12. (1) If any person contravenes any order made under section 3 or section 4 or section 7 (1) (a) or continued under section 9, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both; and, if the order so provides, any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the Provincial Government:

Provided that where the contravention is of an order relating to an essential article which contains an express provision in this behalf, the Court shall make such direction, unless for reasons to be recorded in writing, it is of opinion that the direction should not be made in respect of the whole or, as the case may be, a part of the property.

(2) Where any essential article is seized under the authority of an order made under this Act or continued under section 9 and such order provides for the forfeiture of the article in respect of which the order has been contravened, such forfeiture may, whether or not any prosecution is instituted for a contravention of the order, be adjudged by the Collector of the district or Presidency-town in which the seizure was made, and any forfeiture so adjudged shall, subject only to an appeal which shall lie to the Provincial Government, be final:

Provided that an adjudication of forfeiture under this sub-section shall be no bar to the prosecution or punishment of any person under sub-section (1).

(3) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening an order made under this Act or continued under section 9.

(4) If any person to whom any provision of any order made under this Act or continued under section 9 relates, or to whom any such provision is addressed or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates—

(a) fails, without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply, or to secure compliance, with such provision, or

(b) evades, or attempts to evade, by any means, such provision, he shall be deemed to have contravened such provision; and in this Act, the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

Abetment and assistance of contraventions.

13. Any person who attempts to contravene or abets or attempts to abet or does any act preparatory to a contravention of an order made under this Act or continued under section 9 shall be deemed to have contravened the order; and any person who, knowing or having reasonable cause to believe that any other person is contravening any order made under this Act or continued under section 9, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for the said contravention, shall also be deemed to have contravened the order.

Offences by corporations.

14. If the person who contravenes or is deemed to contravene an order made under section 3, sectionn 4 or section 7 or continued under section 9 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge and that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Cognizance of offences.

15. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code.

Burden of proof.

16. Where any person is prosecuted for contravening any order made under this Act or continued under section 9 which prohibits him from doing an act or being in possession of a thing without lawful authority or excuse or without a permit, licence, certificate, or permission, the burden of proof that he has such authority or excuse or, as the case may be, the requisite permit, licence, certificate or permission shall be on him.

Saving as to orders.

17. (1) No Court shall, in any suit in which the validity of an order issued or action taken under this Act is in question, have power to issue any injunction, whether permanent or temporary, so as to restrain the Provincial Government or any authority or officer empowered by or under this Act from executing or carrying out any order passed by them or by him this Act, or in any way interfere with or affect such order.

Nothing contained in this section shall be deemed to prevent the Court from granting in the suit any relief by way of compensation to which the party may be entitled.

(2) Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Act, a Court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

Protection of action taken under the Act.

18. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3, section 4, section 7 or continued under section 9.

(2) No suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3, section 4 or section 7 or continued under section 9.

Power to make rules.

19. (1) The Provincial Government may, by notification in the *Fort St. George Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed in arbitrations under this Act;

(b) the principles to be followed in apportioning costs of proceedings before the arbitrator and on appeal.

THE SCHEDULE.
[*See* section 2 (*a*).]

(1) Firewood.
(2) Charcoal.
(3) Livestock.
(4) Eggs.
(5) Non-edible oil seeds.
(6) Manures.
(7) Electrical energy.
(8) All vat dyes.
(9) Alazarine.
(10) Other dyes used for textile printing.
(11) Artificial silk yarn.
(12) Motor vehicles (new or used).

THE MADRAS BUILDINGS (LEASE AND RENT CONTROL) ACT, 1946.

ACT No. XV OF 1946.

[28*th September*, 1946.

An Act to regulate the leasing of buildings and for control of rent in the Province of Madras.

WHEREAS it is expedient to regulate the letting of residential and non-residential buildings and to control the rents for such buildings and to prevent unreasonable eviction of tenants therefrom in the Province of Madras; It is hereby enacted as follows:—

Short title, application, commencement and duration.

1. (1) This Act may be called THE MADRAS BUILDINGS (LEASE AND RENT CONTROL) ACT, 1946.

(2) It applies to the City of Madras, all municipalities within the Province and such other areas as may be notified by the Provincial Government in the *Fort St. George Gazette.*

(3) It shall come into force on the 1st October, 1946.

(4) It shall remain in force for two years; but the Provincial Government may, from time to time, by notification in the *Fort St. George Gazette*, extend the continuance of this Act for a further period or periods not exceeding in the aggregate two years, if, in their opinion, it is expedient so to do.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "building" means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes, and includes—

(*a*) the garden, grounds and out-houses, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut,

(*b*) any furniture supplied by the landlord for use in such building or hut or part of a building or hut,

but does not include a room in a hotel or boarding house;

(2) "Controller" means any person appointed to perform the functions of a Controller under this Act;

(3) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent if the building were let to a tenant;

(4) "tenant" means any person by whom or on whose account rent is payable for a building and includes a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market, car-stand or slaughter-house or of rents for shops has been farmed out or leased by a municipal council or local board or the Corporation of Madras.

Notice of vacancy by landlord.

3. (1) Every landlord shall, within seven days after his building becomes vacant by the landlord ceasing to occupy the building or by the termination of a tenancy, give notice thereof in writing to the Controller:

Provided that this sub-section shall not apply to a building the monthly rent of which does not exceed thirty rupees.

(2) If, within a week of the receipt of a notice under sub-section (1) by the Controller, the Provincial Government or any officer empowered by them in that behalf does not intimate to the landlord in writing that the building is required by them for any Governmental purposes or for use by any public institution under Government control or any officer of the Government, the landlord shall be at liberty to lease the building to any tenant.

(3) If the Provincial Government require the building for any purpose specified in sub-section (2), the Provincial Government shall be deemed to be the tenant of the landlord as from the date of the receipt of the notice under sub-section (1) and the terms of the tenancy shall be such as may be agreed upon between them:

Provided that the rate of rent shall not exceed the fair rent that may be payable under the provisions of this Act.

Determination of fair rent.

4. (1) The Controller shall on application by the tenant or landlord of a building fix the fair rent for such building after holding such inquiry as the Controller thinks fit.

(2) In fixing the fair rent under this section the Controller shall have due regard—

(a) to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 1st April, 1940;

(b) to the rental value as entered in the property tax assessment book of the municipal council, local board or the Corporation of Madras, as the case may be, relating to the period mentioned in clause (a);

(c) to the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to rent after the 1st April, 1940.

(3) In fixing the fair rent of residential buildings, the Controller may allow—

(i) if the rate rent or rental value referred to in sub-section (2) does not exceed Rs. 25 per mensem, an increase not exceeding 8-1|3 per cent. on such rate or rental value;

(ii) if the rate of rent or rental value exceeds Rs. 25 per mensem but does not exceed Rs. 50 per mensem, an increase not exceeding 12½ per cent. on such rate or rental value;

(iii) if the rate of rent or rental value exceeds Rs. 50 per mensem, an increase not exceeding 25 per cent. on such rate or rental value:

Provided that in the case of a residential building which has been constructed after the 1st April, 1940, the percentage of increase shall not exceed 25, 37½ and 50 respectively.

(4) In fixing the fair rent of non-residential buildings, the Controller may allow—

(i) if the rate of rent or rental value referred to in sub-section (2) does not exceed Rs. 50 per mensem, an increase not exceeding 37½ per cent. on such rate or rental value;

(ii) if the rate of rent or rental value exceeds Rs. 50 per mensem, an increase not exceeding 50 per cent. on such rate or rental value:

Provided that in the case of a non-residential building which has been constructed after the 1st April, 1940, the percentage of increase shall not exceed 50 and 100 respectively.

(5) In the case of a building for which the fair rent has been fixed before the commencement of this Act, the Controller shall on the application of the landlord allow such increase in the fair rent as in the opinion of the Controller the landlord is entitled to under this section.

Increase in fair rent in what cases admissible.

5. When the fair rent of a building has been fixed under section 4, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building is then in the occupation of a tenant, at his request:

Provided that the fair rent as increased under this section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this section shall be decided by the Controller.

Landlord not to claim anything in excess of fair rent.

6. When the Controller has determined the fair rent of a building—

(a) the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess of such fair rent, but the landlord may stipulate for, and receive as advance, an amount not exceeding one month's rent;

(b) any agreement for the payment of any sum in addition to rent or of rent in excess of such fair rent except in cases falling under section 5 or clause (a) of this section shall be null and void in respect of such addition or excess and shall be construed as if it were an agreement for payment of the fair rent;

(c) any sum paid in excess of the fair rent, whether before or after the commencement of this Act in respect of the use of the building after the commencement of this Act, shall be refunded to the person by whom it was paid or, at the option of such person, otherwise adjusted.

Eviction of tenants.

7. (1) A tenant in possession of a building shall not be evicted therefrom, whether in execution of a decree or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this section:

Provided that nothing contained in this section shall apply to a tenant whose landlord is the Provincial Government:

Provided further that where the tenant denies the title of the landlord or claims right of permanent tenancy, the Controller shall decide whether the denial or claim is *bona fide* and if he records a finding to that effect, the landlord shall be entitled to sue for eviction of the tenant in a civil court and the court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2). A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied—

(i) that the tenant has not paid or tendered the rent due by him in respect of the building, within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable, or

(ii) that the tenant has after the commencement of this Act without the written consent of the landlord—

(a) transferred his right under the lease or sub-let the entire building or any portion thereof, or

(b) used the building for a purpose other than that for which it was leased, or

(iii) that the tenant has committed such acts of waste as are likely to impair materially the value or utility of the building, or

(iv) that the tenant has been guilty of such acts and conduct which are a nuisance to the occupiers of buildings in the neighbourhood, or

(v) that where the building is situated in a place other than a hillstation, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, the Controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satisfied, he shall make an order rejecting the application.

(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession—

(i) in the case of a residential building, if he requires it for his own occupation and if he is not occupying a residential building of his own in the city, town or village concerned;

(ii) in the case of a non-residential building, if he is not occupying for purposes of a business which he is carrying on, a non-residential building in the city, town or village concerned which is his own or to the possession of whilh he is entitled:

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period:

Provided further that where a landlord has obtained possession of a building under this clause, he shall not be entitled to apply again under this clause—

(i) in case he has obtained possession of a residential building, for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building, for possession of another non-residential building of his own.

(b) The Controller shall if he is satisfied that the claim of the landlord is *bona fide*, make an order directing the tenant to put the landlord in possession of the building on such date as may be sperified by the Controller and if the Controller is not so satisfied, he shall, make an order rejecting the application:

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(4) Where a landlord who has obtained possession of a building in pursuance of an order under sub-section (3) does not himself occupy it within one month of the date of obtaining possession, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of the building and the Controller shall make an order accordingly.

(5) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding fifty rupees be paid by such landlord to the tenant.

(6) Where an application under sub-section (2) or sub-section (3) for evicting a tenant has been rejected by the Controller, the tenancy shall subject to the provisions of this Act be deemed to continue on the same terms and conditions as before and shall not be terminable by the landlord exiept on one or more of the grounds mentioned in sub-section (2) or sub-section (3).

Landlord not to interfere with amenities enjoyed by the tenant.

8. (1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the Controller on enquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.

Execution of orders.

9. Every order made under section 7 or section 8 and every order passed on appeal under section 12 shall be executed—

(i) in the City of Madras, by the Principal Judge of the Madras City Civil Court and during the vacation of that Court, by the Vacation Judge of the Court of Small Causes, Madras;

(ii) elsewhere, by the Subordinate Judge or if there are more than one Subordinate Judge, by the Principal Subordinate Judge having original jurisdiction over the area in which the building is situated or, if there is no such Subordinate Judge, by the District Judge having jurisdiction,

as if it were a decree passed by him.

Decisions which have become final not to be reopened.

10. The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 7 which raises substantially the same issues as have been finally decided in a former proceeding under this Act or under the corresponding provisions of the Madras House Rent Control Order, 1945, or the Madras Non-Residential Building Rent Control Order, 1945, between the same parties or between parties under whom they or any of them claim.

Conversion of non-residential buildings and failure by landlord to make necessary repairs.

11. (1) No residential building shall be converted into a non-residential building except with the permission in writing of the Controller.

(2) If a landlord fails to make the necessary repairs to the building within a reasonable time after notice is given by the tenant, it shall be competent for the Controller to direct on application by the tenant that such repairs may be made by the tenant and that the cost thereof may be deducted from the rent which is payable by him.

Appeal.

12. (1) (a) The Provincial Government may, by general or special order notified in the *Fort St. George Gazette*, confer on such officers and authorities as they think fit, the powers of appellate authorities for the purposes of this Act, in such areas or in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of receipt of such order, prefer an appeal in writing to the appellate authority having jurisdiction.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal.

(4) The decision of the appellate authority and subject only to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

Exemptions.

13. Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Fort St. George Gazette*, exempt any building or class of buildings from all or any of the provisions of this Act.

Executive authorities of local bodies to furnish certified extracts from property-tax assessment books.

14. The executive authority of a municipal council or local board or the Revenue Officer of the Corporation of Madras shall, on application made in this behalf and on payment of such fee as may, from time to time, be fixed by the Provincial Government, by notification in the *Fort St. George Gazette*, grant to the applicant a certified copy of the extract from the property-tax assessment book of the municipal council, local board or the Corporation of Madras, as the case may be, showing the rental value of the building or buildings in respect of which application has been made, relating to the period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act.

Landlord and tenant to furnish particulars.

15. Every landlord and every tenant of a building shall be bound to furnish to the Controller or any person authorised by him in that behalf, such particulars in respect of the building as may be prescribed by rules made under this Act.

Penalties.

16. (1) If any person contravenes any of the provisions of sub-section (1) of section 3, clause (a) of section 6, sub-section (1) of section 8, sub-section (1) of section 11 and section 15, he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence of fine exceeding one thousand rupees when awarding punishment under sub-section (1).

Power to make rules.

17. (1) The Provincial Government may make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the procedure to be followed by Controllers and appellate authorities in the performance of their functions under this Act,

(b) the manner in which notices and orders under this Act shall be given or served.

(3) All rules made under this section shall be published in the *Fort St. George Gazette*, and upon such publication shall have effect as if enacted in this Act.

Continuance in force of existing proceedings, orders, etc.

18. (1) All proceedings commenced and action taken under the Madras House Rent Control Order, 1945, and the Madras Non-Residential Building Rent Control Order, 1945, and pending at the commencement of this Act shall, so far as may be, be deemed to have been commenced or taken under the corresponding provisions of this Act and be continued subject to the provisions of this Act.

(2) All orders passed or deemed to have been passed under the Madras House Rent Control Order, 1945, and the Madras Non-Residential Building Rent Control Order, 1945, and in which fair rent has been fixed, shall continue in force until they are superseded or modified under this Act by the authority competent to do so.

Saving.

19. The expiration of this Act shall not—

(a) render recoverable any sum which during the continuance thereof was irrecoverable or affect the right of a tenant to recover any sum which during the continuance of this Act was recoverable by him thereunder,

(b) affect any liability incurred under this Act or any punishment incurred in respect of any contravention of this Act or any order made thereunder,

(c) affect any investigation or legal proceeding in respect of any such liability or punishment as aforesaid,

and any such investigation or legal proceeding may be instituted, continued or enforced and any such punishment may be imposed, as if this Act had not expired.

THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (SECOND AMENDMENT) ACT, 1946.

ACT No. XVI OF 1946.

[21st September, 1946.

An Act to amend the Madras District Municipalities Act 1920, the Madras Local Boards Act, 1920, and the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942.

WHEREAS it is expedient to amend the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, and the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (SECOND AMENDMENT) ACT, 1946.

Reconstitution of superseded or dissolved municipal councils and district boards to be by election.

2. Where any municipal council or district board has been superseded or dissolved and has not been reconstituted before the commencement of this Act, or where any municipal council or district board is superseded or dissolved after the commencement of this Act, the provisions of section 4 (1) (a) or section 8 (1) (a), as the case may be, of the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942 (hereinafter referred to as the said Act), shall not apply to the reconstitution of such municipal council or district board, and all the members of such municipal council or district board, when it is reconstituted, shall be elected.

Elections to district boards and appointment of Special Officers.

3. (1) Where elections have to be held for the first time after the commencement of this Act to fill vacancies in the office of the members of any district board whose term of office has been fixed under section 7 or section 8 (1) (c) of the said Act, then, notwithstanding anything contained in the Madras Local Boards Act, 1920, and in section 11 (a) of the said Act, it shall be lawful for the Provincial Government—

(i) to cause elections to be held to the district board so that its newly elected members may come into office on any date fixed by the Provincial Government, which may be different from the date of expiry of the term of the members previously holding office;

(ii) to advance or postpone the date fixed under clause (i) and fix instead another date;

(iii) to appoint for that district board a Special Officer to exercise the powers, discharge the duties and perform the functions of the district board and its president during the interval between the date of expiry of the term of the members previously holding office and the date on which the newly elected members will come into office.

(2) Where a Special Officer has been appointed under sub-section (1), he shall exercise the powers specified in sub-section (3) of section 240 of the Madras Local Boards Act, 1920, and any such officer who is not a District Collector or Revenue Divisional Officer may, if the Provincial Government so direct, receive payment for his services from the district fund.

Power to remove difficulties.

4. If any difficulty arises in giving effect to the provisions of this Act, or of the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, or the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942, as amended by this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE MADRAS TENANTS AND RYOTS PROTECTION ACT, 1946.

ACT No. XVII OF 1946.

[4th October, 1946.

An Act to provide for the temporary protection of certain classes of tenants and ryots in the Province of Madras.

WHEREAS it is necessary, pending further legislation, to provide for the temporary protection against eviction of tenants to whom the Malabar Tenancy Act, 1929, applies and of tenants of private lands in estates governed by he Madras Estates Land Act, 1908, and against sale of the holdings of such tenants and of ryots in such estates and to provide for the stay of suits and other proceedings relating to such eviction and sale; It is hereby enacted as follows:

Short title, application, commencement and duration.

1. (1) This Act may be called THE MADRAS TENANTS AND RYOTS PROTECTION ACT, 1946.

(2) It applies to—

(a) tenants in the district of Malabar governed by the Malabar Tenancy Act, 1929;

(b) ryots in estates in the Province of Madras governed by the Madras Estates Land Act, 1908; and

(c) tenants of private lands in such estates.

(3) It shall come into force at once.

(4) It shall remain in force for a period of two years; but the Provincial Government may, from time to time, by notification in the *Fort St. George Gazette*, extend this period by a further period or periods, not exceeding two years in the aggregate, if, in the opinion of the Provincial Government, it is expedient so to do.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) the expressions 'estate,' 'holding,' 'private land,' 'rent,' and 'ryot' shall in relation to estates governed by the Madras Estates Land Act, 1908, have the same meanings respectively as in that Act;

(b) the expressions 'eviction,' 'holding,' 'rent' and 'tenant' shall in relation to cases governed by the Malabar Tenancy Act, 1929, have the same meanings respectively as in that Act;

(c) the expression 'landlord' shall mean—

(i) in relation to estates governed by the Madras Estates Land Act, 1908, 'landholder' as defined in that Act; and

(ii) in relation to cases governed by the Malabar Tenancy Act, 1929, 'landlord' as defined in that Act.

Ryots and tenants not to be evicted.

3. During the continuance of this Act and subject to the provisions of sections 4 and 5—

(a) no tenant in the district of Malabar, and no tenant of any private land in an estate shall be liable to be evicted by his landlord in pursuance of a decree or order for eviction; and

(b) no holding of a tenant or ryot shall be liable to be sold or brought to sale in pursuance of a decree, order, or other proceeding for recovery of rent.

Stay of suits and proceedings for eviction of tenants.

4. (1) All suits, proceedings in execution of decrees or orders and other proceedings—

(a) for the eviction of tenants from their holdings or land, as the case may be, or in which a claim for such eviction is involved, whether in addition to a claim for rent or not, or

(b) in which the sale of the holding of a tenant or ryot for recovery of rent is claimed

and which are pending at the commencement of this Act or may be instituted thereafter in any civil or revenue Court shall be stayed subject to the provisions of the following sub-sections:

Provided that nothing contained in this sub-section shall affect the power of the Court to grant any relief of the nature specified in section 94 of the Code of Civil Procedure, 1908, with a view to prevent wilful waste by the tenant or any person claiming under him.

(2) Where in a suit for eviction there is also a claim for rent, the tenant shall within two months from the date of the commencement of this Act or the date of institution of the suit, as the case may be, deposit in Court, for payment to the landlord—

(i) in the case of a suit instituted before the commencement of this Act, the arrears of rent accrued due until the date of the commencement of this Act, at the rate claimed in the plaint or an amount equivalent to rent for two years at the rate aforesaid, whichever is less,

(ii) in the case of a suit instituted on or after the commencement of this Act, the arrears of rent claimed in the plaint, or an amount equivalent to rent for two years at the rate claimed in the plaint, whichever is less,

together with such interest as may be payable under law, custom or agreement.

(3) In the case of a decree or order for eviction, if the decree or order provides for payment of rent, or in the case of a decree, order or other proceeding for the sale of a holding to recover rent, the tenant or ryot shall, within two months from the date of the commencement of this Act, deposit in Court, for payment to the landlord, the amount payable under the decree or order or an amount equivalent to rent for two years immediately preceding the commencement of this Act, whichever is less.

(4) Notwithstanding the expiry of the period specified in sub-section (2) or sub-section (3), the Court may, if satisfied that the tenant was prevented by sufficient cause from making the deposit within the period aforesaid, allow the deposit to be made within a specified period not exceeding one month and may extend it by such period or periods not exceeding one month in the aggregate, as it thinks fit.

(5) Where a suit or other proceeding is stayed under sub-section (1), the tenant or ryot shall, so long as this Act is in force, deposit or continue to deposit in Court, for payment to the landlord, each year's rent as it accrues due, within a period of two months from the date on which it becomes payable or such further period or periods not exceeding two months in the aggregate as may be allowed by the Court.

(6) The deposit specified in sub-sections (2), (3), and (5) may be made by the tenant or ryot or any person whose interests are likely to be affected by the eviction or sale of the holding or land.

(7) If the deposit required by sub-section (2) or sub-section (3) or sub-section (5) is not made within the time specified therein or within such time as may be granted under sub-section (4) or sub-section (5), the Court shall proceed with the suit, execution proceeding or other proceeding, as the case may be, from the stage which had been reached when the suit or proceeding was stayed.

(8) Where a deposit has been made under sub-section (2) or sub-section (5) and there is a dispute in regard to the rate of rent or the existence of the arrears of rent or the amount thereof, the Court may—

(i) refuse to pay to the landlord the whole of the amount deposited or, as the case may be, the portion thereof which is in dispute; or

(ii) direct the payment of the same to the landlord on such terms and conditions as it thinks fit.

(9) The provisions of sub-sections (1) to (8) shall apply *mutatis mutandis* to all proceedings pending at the commencement of this Act or instituted thereafter, in any Court of appeal or revision.

Power of Provincial Government to order continuance of suits and proceedings.

5. Notwithstanding anything contained in section 4, the Provincial Government may direct that any suit or proceeding or class or classes thereof, stayed under sub-section (1) or sub-section (2) of that section shall be proceeded with from the stage which had been reached when the suit or proceeding was stayed.

Continuance of suits and proceedings after the expiration of the Act.

6. All suits and proceedings stayed under this Act shall, after the expiration of this Act, be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the suit or proceeding was stayed:

Provided that in the case of a suit instituted after the commencement of this Act, the Court may, if satisfied that such suit is vexatious or unnecessary, deprive the plaintiff of his costs and award costs to the defendant.

Power to remove difficulties.

7. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

THE MADRAS PRESERVATION OF PRIVATE FORESTS ACT, 1946.

ACT NO. XVIII OF 1946.

[29th October, 1946.

An Act to prevent the indiscriminate destruction of private forests and interference with customary and prescriptive rights therein and for certain other purposes.

WHEREAS it is necessary, pending further legislation, to prevent the indiscriminate destruction of private forests and interference with customary and prescriptive rights therein;

AND WHEREAS it is necessary to make provision for certain other purposes also;

It is hereby enacted as follows:—

Short title, application, commencement and duration.

1. (1) This Act may be called THE MADRAS PRESERVATION OF PRIVATE FORESTS ACT, 1946.

(2) It applies—

(i) to private forests in the districts of Malabar and South Kanara having a contiguous area exceeding 100 acres and owned by a single person or by more than one person jointly;

(ii) to forests situated in estates as defined in the Madras Estates Land Act, 1908, in the Province of Maddas;

(iii) to private forests situated in other areas in the Province of Madras and having a contiguous area exceeding 100 acres which may be declared by the Provincial Government to be forests for the purposes of this Act by notification in the *Fort St. George Gazette*.

but does not apply to reserved forests constituted under the Madras Forest Act, 1882, and lands at the disposal of the Government as defined in that Act.

(3) It shall come into force at once.

(4) It shall remain in force for a period of two years, but the Provincial Government may, from time to time, by notification in the *Fort St. George Gazette*, extend this period by a further period or periods not exceeding two years in the aggregate if, in the opinion of the Provincial Government, it is expedient so to do.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) 'forest' includes waste or communal land containing trees and shrubs, pasture land and any other class of land declared by the Provincial Government to be a forest by notification in the *Fort St. George Gazette*.

Explanation.—For the purposes of this clause, 'communal land' means any land of the description mentioned in sub-clause (a) or sub-clause (b) of clause (16) of section 3 of the Madras Estates Land Act, 1908.

(b) 'owner' in relation to a forest includes a mortgagee, lessee or other person having right to possession and enjoyment of the forest;

(c) 'person' includes a Hindu undivided family, a Marumakkattayam tarwad of tavazhi and an Aliyasantana family or branch.

Preservation of private forests.

3. (1) (a) No owner of any forest shall, without the previous sanction of the District Collector sell, mortgage, lease or otherwise alienate the whole or any portion of the forest.

Explanation.—Nothing in this sub-section shall be construed as preventing the owner from selling or otherwise dealing with the right to gather and remove forest produce other than trees and timber in the usual or customary manner, for a period not exceeding two years.

(*b*) Any alienation made on or after the 16th August, 1946 in contravention of clause (*a*) shall be null and void.

(2) No owner of any forest or any person claiming under him, whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of this Act or any other person shall, without the previous permission of the District Collector, cut trees or do any act likely to denude the forest or diminish its utility as a forest:

Provided that nothing contained in this sub-section shall apply to the removal of dead or fallen trees or to any act done for the usual or customary domestic purposes or for making agricultural implements.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Provincial Government may exempt any forest or class of forests or class of trees therein from all or any of the provisions of this section.

Appeals.

4. Any person aggrieved by an order under clause (*a*) of sub-section (1) of section 3 or under sub-section (2) of that section in regard to the sanction or permission referred to in that clause or sub-section may, within two months of the receipt of such order, prefer an appeal in writing to the Provincial Government. The Provincial Government shall pass such orders on the appeal as they may think fit.

Stay of certain civil and criminal proceedings.

5. (1) All suits, proceedings in execution of decrees or orders and other proceedings including proceedings by way of appeal or revision, in which a claim to customary or prescriptive rights in a forest is involved and all criminal proceedings in respect of offences which are of the nature described in Chapter XVII of the Indian Penal Code and arise out of any act done in exercise or assertion of such customary or prescriptive rights and which are pending at the commencement of this Act or may be instituted thereafter shall stand stayed and shall not be proceeded with until after the expiration of this Act.

(2) Notwithstanding anything contained in sub-section (1), the Provincial Government may direct that any suit or proceeding or class or classes thereof stayed under sub-section (1) shall be proceeded with from the stage which had been reached when the suit or proceeding was stayed.

Power to prohibit or regulate certain acts.

6. If, in the opinion of the Provincial Government, it is necessary for the preservation of a forest or forests they may, by notification in the *Fort St. George Gazette*—

(*i*) prohibit or regulate the doing of any act likely to be detrimental to the preservation of such forest or forests;

(*ii*) regulate the exercise of customary or prescriptive rights in such forest or forests.

Penalties.

7. (1) Whoever contravenes the provisions of sub-section (1) or sub-section (2) of section 3 or any of the terms of a notification under section 6 shall be punishable with imprisonment which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the first class, specially empowered by the Provincial Government in this behalf, to impose a sentence of fine exceeding one thousand rupees.

Institution of prosecutions.

8. No prosecution shall be instituted against any person without the sanction of the District Collector.

Bar of suits.

9. No order of the Provincial Government or the District Collector under this Act and no notification issued by the Provincial Government under section 6 shall be liable to be questioned in any Court of law.

Power to make rules.

10. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the classes or kinds of trees which may be permitted to be cut and the girth of such trees;

(*b*) the terms and conditions subject to which permissions may be granted;

(*c*) the procedure to be followed by the District Collector before granting permissions.

Continuance of suits and proceedings after the expiration of the Act.

11. All suits and proceedings stayed under this Act shall, after the expiration of this Act, be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the suit or proceeding was stayed.

Power to remove difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.

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